Imam Abu Hanifah

Life And Work

English Translation of:
Allamah Shibli Nu'mani's
"SIRAT-I-NU'MAN"

By

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Author's Preface

My series of eminent Muslims' biographies, launched with the publication of *Al-Mamun,* was originally conceived on a grand scale. I proposed to select my heroes, not only from ruling dynasties, but also from the world of learning. The task proved too gigantic for me and I had to reduce its size by confining myself to rulers and, further, by leaving out some of the dynasties. However, I did not altogether give up the idea of presenting some great men of learning, time permitting; for, as the Arabic saying goes, the sword and the pen are twins.

After the publication of *Al-Mamun* I started writing *Al-Faruq;* but after I had written a considerable part of it I had to come to a halt. Uncomprehending critics attributed all kinds of motives to me, although the reason was nothing more than this that a number of books, which it was necessary for me to consult and which were being published in Europe, had not yet become available. Rather than sit idle while waiting for those books I thought of writing on some other famous ruler, but was inhibited by the uneasy feeling of having an unfinished book on my hands, besides being haunted by my original idea of including men of learning among my heroes.

Ultimately, the latter idea prevailed so that, turning away from ruling dynasties, I explored the world of learning for someone to write about. The sciences and arts to choose my hero from were *Fiqh* (jurisprudence), *Hadith* (tradition), *Adab* (literature), *Mantiq* (logic), philosophy and mathematics. For certain reasons I decided to make my choice from *Fiqh* and chose its founder and greatest master, Imam Abu Hanifah. Abu Hanifah's juristic pronouncements and formulations have held sway over the entire Muslim world for nearly twelve centuries. They were on the statute books of many Muslim empires and kingdoms and are still followed in the larger part of the Muslim world. His biographies have been written in Arabic, Persian, Turkish and several European languages, and it seemed to me deplorable that none had been written in Urdu, by and large the language of his followers.

No other Muslim has as many biographies written of him as Abu Hanifah has, which shows how high he ranks among the celebrities of Islam. Research and writing on personalities were developed in Islam to a degree unparalleled anywhere else. The subject was divided into several branches, entitled *tarajim, tabaqat, qurun, wafayat, a'yan* and *sinin,* and innumerable books were written in each branch; but biography, properly so called, did not make much progress. There are very few great men—scholars, poets, judges or philosophers—who have been fortunate enough to have had regular biographies written of them. Abu Hanifah is not only one of the fortunate few, but the most fortunate of them, with Shafi'i as a close second; and many of his numerous biographers were themselves men fit to be the subject of full-blooded biographies.

I give below particulars[1] of such of Abu Hanifah's biographies as I have been able to ascertain:

(1) Ahmad b. Muhammad Tahawi;, *'Uqud al-Marjan.* Tahawi (d. 321 H.) is a well-known doctor of *Hadith* and *Fiqh* and by one remove a disciple of Shafi'i. Of his writings the *Ma'ni al-Athar* has been published.

(2) Ahmad b. Muhammad Tahawi, *Qala'id 'Uqud al-Durr wa'l-'Iqyan.* This is a summary of the *'Uqud al-Marjan.*

(3) Ahmad b. Muhammad Tahawi, *al-Raudat al-'Aliyat al-Munifah.*

(4) Muhammad b. Ahmad b. Shu'aib, *Manaqib al-Nu'man.* Muhammad b. Ahmad (d. 357 H.) was the *Hadith* teacher of Hakim. The book is in twenty parts *(al-Jawahir al-Mudiyyah).*

(5) Abu 'Abd-Allah al-Sumairi Husain b. 'Ali, *Manaqib al-Nu'man.* Sumairi (d. 436 H.) was a great *faqih* and a

1. Except where otherwise indicated, these particulars have been derived from the *Kashf al-Zunun.*

disciple of Daraqutni in *Hadith*. The historian Khatib quotes Traditions from him. Qadi Abu'l-Waild al-Baji has called him Imam al-Hanafiyyah. This is a voluminous book, the main source of information on Abu Hanifah.

(6) Abu'l-'Abbas Ahmad b. al-Salt al-Hamani, *Manaqib al-Nu'man*. This is a book rich in details. The author of the *Kashf al-Zunun* writes that Khatib Baghdadi has tried to discredit Abu'l-'Abbas, as is his wont in respect of Hanafis. Died in 308 H.

(7) Jar Allah Zamakhshari, *Shaqa'iq al-Nu'man fi Manaqib al-Nu'man*. Zamakhshari (d. 528 H.) is a renowned writer: author of the famous *Tafsir Kashshaf*.

(8) Muwaffiq al-Din b. Ahmad al-Mulki al-Khwarazmi, *Manaqib al-Num'an*. The book consists of 40 chapters. The author (d. 568 H.), a disciple of Zamakhshari, was a great *Fiqh* doctor and *litterateur*. Suyuti mentions him in his *Bughyat al-Wu'at*.

(9) 'Abd-Allah b. Muhammad al-Harithi al-Kalabadhi, *Kashf al-Athar*. A famous writer (d. 340 H.) Ibn Jauzi quotes Abu Sa'id as saying that he was unreliable in narrating Traditions. Commenting on this, the author of *Jawahir al-Mudiyyah* says that 'Abd-Allah ranks higher than both Ibn Jauzi and Abu Sa'id.

(10) Zahir al Din al-Marghinani, *Manaqib al-Nu'man*. A famous *faqih*. The author of *Jawahir al-Mudiyyah* says that Qadi Khan was one of his disciples. Died in 506 H.

(11) Muhammad b. Muhammad al-Kurdari, *Manaqib al-Nu'man*. Consists of eleven chapters, which give accounts of Abu Hanifah and his famous disciples, viz. Abu Yusuf, Muhammad, 'Abd Allah b. Mubarak, Zufar, Dawud al-Ta'i Waki' b. al-Jarrah, Hafs b. Ghayath, Yahya b. Zakariya, Hasan b. Ziyad. The book is very popular in

Turkey and was translated into Turkish by Muhammad b. 'Umar under the orders of Sultan Murad II. The author died in 827 H.

(12) Abu'l-Qasim b. Kas, *Manaqib al-Nu'man*. There are many citations from this book in the *'Uqud al-Juman*.

(13) Qadi 'Abd al-Barr, *Kitab al-Intiha' fi Manaqib al-Thulathat al-Fuqaha.'*. Contains accounts of Abu Hanifah, Malik and Shafi'i. Ibn Khallikan mentions it in his note on Abu Yusuf. The author (d. 463 H.)is a great *muhaddith* and *imam* . His *al-Isti'ab* is a famous and authentic book on the Companions.

(14) Abu'l-Qasim 'Abd-Allah b. Muhammad b. Ahmad, better known as Ibn Abi al-'Awam, *Manaqib al-Nu'man*.

(15) Dhahabi, *Manaqib Abi Hanifah*. The author refers to this book in his *Tadhkirat al-Huffaz*. He was a very great *muhaddith*, unsurpassed by any successor. His well-known books are *Mizan al-I'tidal, Kashif, 'Abr, Duwal al-Islam* and *Tadhkirat al-Huffaz*.

(16) Abi al-Hasan b. Abi al-Qasim al-Baihaqi, *al-Mawahib al-Sharifah fi Manaqib Abi Hanifah*. A translation of this book has been published under the title of *Tuhfat al-Sultan fi Manaqib al-Nu'man*.

(17) Muhiy al-Din 'Abd al-Qadir al-Qarashi, *Bustan fi Manaqib al-Nu'man*. Also author of *al-Jawahir al-Mudiyyah fi Tabaqat al-Hanafiyyah*. A disciple of Taqi al-Din Subki in *Hadith*. Died in 775 H.

(18) Jalal al-Din Suyuti. *Tab'id al-Sahifah fi Manaqib Abi Hanifah*. A famous writer.

(19) Muhammad b. Yusuf b. 'Ali al-Damashqi, *'Uqud al-Juman fi Manaqib al-Nu'man*. More details later.

(20) Ibn Hajar Makki, *al-Khairat al-Hisan fi Manaqib al-Nu'man.* Also author of *Sawa'iq Muhriqah.*

(21) *Qala'id 'Uqud al-Juman.* The name of the author is not known. The preface suggests that he was some scholar of the Yemen.

(22) Shams al-Din Ahmad b. Muhammad al-Satwasi, *Manaqib al Nu'man.* In Turkish verse.

(23) Abu Sa'id 'Atiq b. Dawud al-Yamani, *Manaqib al-Imam al-A'zam, Risalah fi Fadl Abi Hanifah.* In Persian.

(24) Sarim al-Din Ibrahim b. Muhammad b. Daqqaq, *Nazm al-Juman.* In three volumes, dealing, respectively, with Abu Hanifah, Abu Yusuf and Muhammad. The author died in 809 H.

(25) Muhammad Kami Afandi, Qadi of Baghdad, *Manaqib al-Imam al-A'zam.* In Turkish. The author died in 1136 H.

(26) Mustaqim-Zadah Sulaiman Sa'd al-Din Afandi, *Manaqib al-Imam al-A'zam.* A voluminous book, written in 1168 H. In Turkish.

Unfortunately, these books are not available in our country. However, I possess a copy each of the *'Uqud al-Juman* and *al-Khairat al-Hisan* and have also read the *Qala'id al-'Iqyan.*[2] The *Khairat al-Hisan,* because of being a work of Ibn Hajar Makki, is more famous than the other two; but it is not a regular work in its own right, being, as the author admits in his preface, only a summary of the *'Uqud al-Juman.* The *Qala'id al-'Iqyan* also, as is clear from its preface, is mostly derived from Sumairi's work. The *'Uqud al-Juman,* a detailed and exhaustive work, which is my main source, is a work by Abu'l-Mahasin Muhammad b. Yusuf b. 'Ali al-

2. I had occasion to read most of the books listed above during my travels in Turkey and Egypt. But none of them contained any material of much use to me.

Damashqi al-Salihi, a visitor to the Khanqah al-Barquqiyah. Abu'l Mahasin is a disciple of Jalal al-Din Suyuti and a well-known *muhaddith.* The book, as mentioned by the author at its conclusion, was completed in Rabi'al-Thani 939. In the preface the author states that of the many books containing accounts of Abu Hanifah that he had read he found Muwaffiq b. Ahmad Khwarazmi's the best and most comprehensive. In the book's concluding passages he mentions that with the material he had found in many books he had consulted he could have written two thick volumes.

Although this is the only regular book on Abu Hanifah that I have been able to lay my hands on, yet I have consulted many books of *rijal* and history in which Abu Hanifah finds mention. Worthy of particular mention among these are: the *Ta'rikh Saghir* of Bukhari, the *Ma'arif* of Ibn Qutaibah, the *Mukhtasar Ta'rikh* of Khatib Baghdadi, the *Ansab* of Sam'ani, the *Tahdhib al-Asma' wa'l-Lughat* of Nawawi, the *Tadhkirat al-Huffaz* of Dhahabi, the *Duwal al-Islam* of Dhahabi, the *'Abr fi Akhbar min Ghabr* of Dhahabi, the *Tahdhib al-Tahdhib* of Hajar 'Asqalani, and the *Khulasah Tadhhib Tahdhib al-Kamal* of Safi al-Din Khazraji. These are basic works of *rijal* today and are mostly relied upon in the criticism of Traditions.

The account of Abu Hanifah's life, which forms the first part of my book, is derived for the most part from the above-mentioned books; but they proved useless for the second part, which deals with Abu Hanifah's personal judgment and principles of deduction, for in early times it was not customary for biographies to include discussion of the subjects' works or ideas. However, there are numerous polemical writings from which one could get material for a detailed review of Abu Hanifah's juristic pronouncements and writings. There is, to begin with, the treatise written by Qasim b. Qatlubagha (d. 879 H.) to refute the objections raised by Ibn Abi Shaibah against Abu Hanifah's legal formulations, by which he tried to prove that they were opposed to *Hadith.* Next there is Shams al-A'immah Kurdari's reply to Shafi'i's *Mankhul.* Then there are two books written under the title of *al-Nukat al-Zarifah fi Tarjih Madhhab Abi Hanifah* by Akmal al-Din Muhammad (died

786 H.) and Abu 'Abd-Allah Muhammad b. Yahya al-Jurjani (died 397 H.). The historian Sibt ibn Jauzi has two works to his name—a two-volume book entitled *al-Intisar al-Imam A'immat al-Amsar* and a book of thirty chapters in which there is a fine discussion of Abu Hanifah's legal pronouncements and which the author of the *Kashf al-Zunun* describes as unparalleled in its class. There is a similar book entitled *al-Intisar wa'l-Tarjih* by 'Umar b. Muhammad b. Sayyid al-Mausili. The most elaborate of all works on the subject is *al-Ibanah* by Qadi Abu Ja'far Ahmad b. 'Abd-Allah al-Sarmari al-Balkhi, consisting of six chapters. The first chapter is devoted to proving that Abu Hanifah's *madhhab* is eminently in accord with the principles of government, the second to proving that his formulations are supported by *Hadith* and *athar,* and the sixth, after listing the questions on which he has been adversely criticised, gives detailed replies to the criticisms. About this book the author of *Jawahir al-Mudiyyah* writes: "I have read this book; it is an excellent book. The author supports with illustrations every claim that he makes."

Undoubtedly, these books would have proved a great help to me; but I did not have the good fortune of the author of the *Kashf al-Zunun* to have access to them, rare as they are. The only one that I could lay hands on after much effort was Shams al-A'immah Kurdari's treatise. Such as it is, it was something to be thankful for. I took from it whatever I could; for the rest, I had to rely upon my own research, for which I was fortunate enough to have an adequate collection of *Hadith* and *Fiqh* books.

A few words would not be out of place about the variations in style and treatment noticeable in the different parts of the present book. The facts of Abu Hanifah's life—birth, upbringing and development, way of living, mode of earning a livelihood, etc.—are historical matters to be dealt with as a historian would deal with them. The reliability of various accounts of them is, however, a question to be decided in accordance with the principles of *Hadith.* Again, appraising Abu Hanifah's juristic formulations and pronouncements in the capacity of a *mujtahid* is a task to be

performed by a *mujtahid.* A book dealing with all these aspects must of necessity be a combination of three methods of treatment—the first that of a historian, the second that of a *muhaddith,* and the third that of a *mujtahid.* Thus, in dealing with purely historical matters I regarded as adequate such evidence as is commonly accepted by historians. Where, however, a question of *Hadith* was involved I made as thorough an examination as was possible, applying all the rules prescribed by the *muhaddithin* for appraising reports and narrations. The passages in which I have done so may prove tedious for the common reader, but it was not possible for me to leave them out for that reason. As regards common historical facts, although I have not scrutinised them as minutely as the *muhaddithin* examine their material, yet I have not recorded a single fact for which there was no authority and have not cited a single authority from any book which I had not myself read, conscious as I was of the fact that second-hand reports can seldom be accurate. Despite all this care, it is possible that I have made mistakes. However, I have the satisfaction of knowing that I have done my best.

Shibli Nu'mani

First Part

Imam's Ancestry and Personality

Chapter I

Name, Ancestry and Birthplace

Acclaimed as the Great Imam and best known by his *kunyah* of Abu Hanifah, Nu'man b. Thabit b. Zuta b. Mah was of 'Ajami (non-Arab) origin, as the etymology of the last two names suggests and as is generally accepted. There are, however, different theories about his origin and how he came to Arabia. The Baghdadi historian Khatib attributes the following statement to the Imam's grandson Isma'il: "I am Isma'il b. Hammad b. Nu'man b. Thabit b. Nu'man b. Marzban. We are of Farsi (Persian) origin and have never been slaves. My grandfather, Abu Hanifah, was born in 80 H. His father, Thabit, called upon Hadrat 'Ali to pay his respects. Hadrat 'Ali was gracious enough to pray for him and his family, and I believe that his prayer bore fruit"[1] Isma'il gave the name of the Imam's grandfather as Nu'man and that of his great-grandfather as Marzban, but the correct names, as commonly accepted, are Zuta and Mah, respectively. It is probable that Zuta, when he adopted Islam, changed his name to Nu'man, which Isma'il, from a legitimate pride in his Muslim ancestry, mentioned instead of Zuta. It is similarly probable that the name of Zuta's father was neither Mah nor Marzban, but something else. Isma'il is further quoted as having claimed that his was a respected and renowned family of Persia. Since the mayor of a city was called Marzban in Persia, it seems a reasonable conjecture that neither Marzban nor Mah was a name and that both of them were titles or official designations. In fact, Hafiz Abu'l-Mahasin took Mah and Marzban to be synonyms. As he knew no Persian, he perhaps only hazarded a guess, but the guess was right, as I can say with certainty. *Mah* is really a variant of *Mah* which means "big" when an adjective and "a chief" when a noun. Arabic pronunciation turned *Mah* to *Mah*.

Some historians have said about Zuta that, having come as a captive from Kabul, he was sold as a slave to a woman of the Bani Taim-Allah tribe, who set him free after he had served her for

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some time. This, according to them, explains why the Imam's famil was known as *maulas* of the Bani Taim-Allah. Enemies of the Imam enjoying the attempt to detract from his status, have given much prominence to this story. It makes little difference whether the story is true or not: the Imam is in good company in either case. The Chosroes of Iran were not spared the stigma of being descendants of slaves. Our scholars would have it that Hagar was a slave-girl, although the Torah says nothing of the kind. In the earlier period of Islam most of the acknowledged masters of *Hadith* were men to whom the appellation of slave actually applied. To name a few, Hasan Basri, Ibn Sirin, Tawus, 'Ata' b. Yasar Nafi', 'Ikrimah and Makhul, all leading authorities in their time, were either slaves or descendants of slaves. Thus, even if it were established that Zuta was a slave, that would not detract one whit from the Imam's greatness. However, historical evidence disproves it.

There are other differences of opinion about the Imam's ancestry. Abu Muti', for example, describes him as an Arab and gives his ancestry thus: Nu'man b. Thabit b. Zuta b. Yahya b. Zaid b. Asad b. Rashid al-Ansari Hafiz Abu Ishaq gives it thus: Nu'man b. Thabit b. Ka'us b. Hurmuz b. Bahram. There are various accounts about Zuta's place of residence too. These differences are quite understandable. We can well guess that Zuta must have remained a stranger in Arabia for some years after his arrival there. People might not have cared to acquaint themselves with facts about him or might have been prevented by the barrier of language from doing so. At the same time, social necessities must have led Zuta to establish friendly relations with them. Friendly relations between strangers and the local people were given a special name in Arabia at that time, to wit, *wila'*, from which is derived the word *maula*, which also means "slave". This verbal confusion may have later on given rise to the idea that Zuta was a slave, and the idea must have taken root in course of time, so that Isma'il found it necessary to contradict it explicitly. Isma'il was a very reliable and highly respected man. Therefore discriminating historians have accepted his version of the facts rather than any other. Qadi Sumairi,

a writer of high rank, has clearly stated that Zuta was an ally of the Bani Taim-Allah.[2] That part of the slavery story which says that Zuta was brought as a captive from Kabul is also obviously false. Zuta's ancestors had Persian names. It is also an established fact about Abu Hanifah that he knew Persian as his family tongue, and Persian was not spoken in Kabul at that time.

We cannot definitely name Zuta's native city. Different historians have mentioned different cities, and it is not possible to say which is the correct one. All that is established beyond doubt is that he came from Persia and was of Persian origin. Persia was in those days under Islamic influence, and most of its great families were gradually getting converted to Islam. Zuta was probably one of the new converts and migrated to Arabia either from a desire to spend the rest of his days in Islam's homeland or in order to escape the displeasure of his family. 'Ali was the Caliph then, and Kufah was his capital. Zuta took up residence at Kufah and used occasionally to attend the caliphal court in order to pay his respects to 'Ali. Once, on the occasion of Nauruz, which is a Persian festival, he sent some *faludah* to the Caliph as a present. "For us," remarked the Caliph on receiving the present "every day is Nauruz." It was at Kufah that Abu Hanifah's father, Thabit, was born. Zuta took the newborn infant to 'Ali, who blessed the infant and his family with his prayers.

Nothing is known about Thabit except that he was a trader. His first son was born when he was forty years old, and he named him Nu'man, to which fame added in the fulness of time the title of Imam-i-A'zam, the Great Imam.

At the time of Abu Hanifah's birth 'Abd al-Malik b. Marwan, the second Caliph of the House of Marwan, was on the throne. There were still many people alive who had the good fortune of seeing the Prophet, and some of them lived on till Abu Hanifah's early youth. Thus, Anas b. Malik, the Prophet's personal attendant, died in 93 H., Suhail b. Sa'd in 91 H., and Abu'l-Tufail 'Amir b.

2. See the *Qala'id 'Uqud-al 'Iqyan*, Chapter 1. Nawawi writes in the introduction to his *Tahdhib al-Asma' wa'l-Lughat* that the word *maula* is mostly used in sense of "ally".

Wathilah in 100 H. There is, however, no evidence that Abu Hanifah quoted even a single Tradition from any of these. This has caused surprise, and historians have explained it in different ways. Some of them think that Abu Hanifah had not yet acquired any education, having been brought up to be a trader like his ancestors, and that, by the time he started educating himself at the instance of Imam Sha'bi, it was too late for him to make up for the opportunity he had lost, as all the Companions had passed away. But I think that something else is the reason. There is a difference of opinion among *Hadith* scholars about the minimum age for learning the discipline of *Hadith*. The strictest in this matter were the scholars of Kufah: they never admitted anybody below the age of twenty to a *Hadith* school.[3] The reason they advanced for this was that, since it was not merely the words but the meanings of the Traditions that had been narrated, it was necessary for the student to have attained maturity of understanding, failing which there would be risk of his misunderstanding and misconstruing them. This, it seems to me, was what prevented Abu Hanifah from achieving the honour of hearing Traditions from the lips of the surviving Companions. Nor was this restriction without justification. Although the Traditions related by those who heard them from the Companions at the early age of ten or twelve years have this merit that they were only once removed from the Prophet, yet there is always this danger inherent in them that, because of immaturity, their narrators may not have grasped their full meaning and may have committed grave errors in interpreting them .

Whatever the reason, it is a fact that Abu Hanifah heard no Tradition from a Companion. He, however, had the good fortune of meeting one of the Companions, namely, Anas. This is a historical fact, but since it confers upon him the rank of being a *Tabi'i,* that is, a successor to the Companions, it has been a subject of much religious controversy. There is, however, no doubt that Abu Hanifah claimed this honour and was proud of it.

Some writers of our day have disallowed to Abu Hanifah the

3. Ibn al-Salah, *Muqaddamah*, Lucknow edn., p. 58.

position of a *Tabi'i*. This is nothing new : doubts were expressed on the subject in earlier times too. But *Hadith* authorities, who have the right more than any others to decide issues of this kind, have decided in favour of the Imam. For Hafiz Ibn Hajar 'Asqalani, on a *fatwa* being sought from him, expressed the following opinion:

"There were many Companions still alive in Imam Abu Hanifah's day. In 80 H., when he was born at Kufah, one of the Companions, 'Abd-Allah b. Ali Aufa, who died in 82 H. or perhaps later, was living in that city. Ibn Sa'd has reported on good authority that Abu Hanifah met Anas b. Malik. Besides these two Companions, there were others living in different cities. Some people have compiled Traditions purporting to have been heard by the Imam from some of the Companions, but the authority for these Traditions is not free from weaknesses. What is factually correct is only this that the Imam was a contemporary of some of the Companions and met a number of them, as reported by Ibn Sa'd. In view of this, Abu Hanifah belongs to the category of Successors to the Companions—a fact which has not been established in respect of other *Imams* who were alive in his time, as, for example, Auza'i in Syria, Hammad at Basrah, Thauri at Kufah, Malik at Medina and Laith in Egypt. However, God knows best."[4]

The statement of Ibn Sa'd which Ibn Hajar has quoted can be traced to Abu Hanifah through a single intermediary, namely, Saif b. Jabir : in other words, Ibn Sa'd heard it from Saif b. Jabir and the latter from Abu Hanifah himself.[5] To Ibn Sa'd's trustworthiness Nawawi testifies in his *Tahdhib-al-Asma'* in the following words: "Although his teacher, Waqidi, is not reliable, he himself is very much so." As regards Saif b. Jabir, he was the *Qadi* of Basrah and a truthful narrator. In view of the character of both its narrators, the story must be taken to be as authentic as the most perfect of Traditions. On the basis of it, therefore, all great *Muhaddithin,* such as Khatib Baghdadi, Sam'ani, author of the *Kitab al-Ansab*,

4. This *fatwa* has been quoted among other passages by Hafiz Abu'l-Mahasin in his *'Uqud al-Juman,* and what I have given is a literal translation of it.

5. Dhahabi, *Tadhkirat al-Huffaz.*

Nawawi, writer of the commentary on Muslim's *Sahih*, Dhahabi, Ibn Hajar 'Asqalani, Zain al-Din 'Iraqi, Sakhawi and Abu'l-Mahasin Dimishqi, who are pillars of *Hadith*, have finally decided that Abu Hanifah did meet Anas.[6]

Ibn Khallikan has also quoted the statement of Khatib Baghdadi, but as he has further said that Abu Hanifah did not meet or hear Traditions from any Companion, people have been misled into believing that Ibn Khallikan denies to Abu Hanifah the status of a Successor to the Companions. The fact is that Ibn Khallikan denies only that Abu Hanifah interviewed and heard Traditions from any Companions and not that he saw one or two of them. Even if Ibn Khallikan's statement were understood to mean what certain superficial readers have taken it to mean, nobody could claim that his testimony overrides the testimony of the great masters of *Hadith* whom we have named above. It is one of the settled principles of the science of Tradition that if the evidence for and against a narrative is of equal weight the evidence for it will be accepted. In the present instance the negative evidence is of much less weight than the positive.

Some Hanafis have gone beyond claiming that Abu Hanifah saw some Companions and have claimed that he actually heard Traditions from them. It is surprising that even 'Aini, commentator on the *Hidayah*, has supported this erroneous claim. The truth of the matter is that the claim has not been established. Abu'l-Mahasin has assembled in his *'Uqud al-Juman* all the Traditions about which it is thought by some people that Abu Hanifah had heard them from the Companions and then, after examining them in the light of the principles of *Hadith*, has proved that they are not authentic. Debate on matters of *Hadith* is a complicated exercise. We shall, therefore, do well to refrain from getting involved in it. What is obvious is that, if the Imam had cited even a single Tradition as having been heard by him from a Companion, his close disciples would have been the first to give publicity to this fact. But not a

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The Imam's *kunyah*, which is better known than his name, was not a true *kunyah*, for he had no son named Hanifah. The *kunyah* was not nominal, but epithetical, being an abbreviation of "Abu'l-Millat al-Hanifah," derived from the words "Wattabi'u millata Ibrahima Hanifa" (Therefore conform to the *millat* of Ibrahim who was *hanif*, i.e. right in his beliefs), which God has addressed to the Muslims in the Qur'an.

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Chapter II

Maturity, Education and Teachers

The Imam's childhood fell in a time of troubles. Hajjaj b. Yusuf was then the Governor of Iraq under the Caliph 'Abd al-Malik and oppression was the order of the day. As it was the opposition of the religiousminded which prevented the House of Marwan from establishing its rule firmly in Arabia and Iraq, Hajjaj chose people who were leaders in religion and learning as special victims of his cruelties. Of Hajjaj there is no truer assessment than that made by 'Umar b. 'Abd al-'Aziz. "If the followers of all the other prophets," said that great Caliph, "were to put forward together the great evildoers of their times and we were to put forward Hajjaj alone, we should win the contest." 'Abd al-Malik died in 86 H. and was succeeded by his son, Walid. Under Walid Islam's conquests were considerably extended. Spain and Sind, two large territories, were annexed; crossing the frontiers of Khwarazm and Samarqand, the Caliph's armies hoisted Islam's flag over Kabul and Farghanah; and in the west the islands of Minorca and Majorca were conquered. Of Islam's spiritual blessings, however, there remained no vestige. The higher the government functionaries, the more despotic and cruel they were. 'Umar b. 'Abd al-'Aziz summed up the tone of the administration in a sentence: "With Walid in Syria, Hajjaj in Iraq, 'Uthman in Hijaz and Qurrah in Egypt the world was full of oppression." Even in that time of universal disaster religious education did not stop and schools of *Hadith* continued to function, but not to the extent that Islam's still fresh vigour and missionary zeal warranted.

Fortunately for Islam and the Muslims, Hajjaj died in 95 H. and Walid followed him a year later. Walid was succeeded by Sulaiman b. 'Abd al-Malik, who is regarded by a consensus of historians as in many ways the best of the Umayyad Caliphs. The best thing that Sulaiman did for the Muslim world was to appoint 'Umar b. 'Abd al-'Aziz as his counsellor and leave a written will appointing him as his successor. Sulaiman died in 99 H. and, in

accordance with his will, 'Umar b. 'Abd al-'Aziz ascended the caliphal throne. With his accession the entire complexion of Marwanid government changed: justice, good admimstration and prosperity were restored. He stopped the reviling of the Caliph 'Ali in public addresses which had been going on *ad libitum*, took back the *jagirs* granted to Umayyad princes and dismissed oppressive officials. The greatest service he, however, rendered was to encourage religious education: he gave it such a fillip that practically every home became a religious school. He commissioned Zuhri to compile the Traditions and, when the compilation was ready, despatched copies of it to all Islamic countries.

As long as Hajjaj and Walid were alive, Abu Hanifah neither felt any incentive nor got an opportunity to acquire education. Content with being a businessman like his ancestors, he set up a silk weaving factory, which he managed well enough to prosper. But when, during Sulaiman's reign, religious education began to come into its own, he felt an urge to acquire it. A happy coincidence turned the urge into a resolve. One day, while passing by the house of Sha'bi, a famous Imam of Kufah, he was called in by the Imam who mistook him for a student. "Where are you going, young man?"[1] asked the Imam. Abu Hanifah named a merchant whom he was going to see. "I meant to ask," said Sha'bi, "whose classes you attend." "No body's," replied Abu Hanifah regretfully. "I see signs of intelligence in you," said Sha'bi. "You ought to sit in the company of learned men." The advice struck a responsive chord, and young Abu Hanifah launched upon an educational career in right earnest. In those days the educational curriculum consisted of literature, genealogy, history of Arabia, *Fiqh*, *Hadith* and *Kalam*. *Kalam* was not then what it is today, as philosophy had not yet influenced the discussion of Islamic religious questions. Nevertheless, it provided the widest scope then available for penetration, imaginativeness and originality in discussions relating to religion. So long as Islam remained confined to Arabia, discussion of its problems reffected its pristine simplicity. It was only when it reached Persia, Egypt and Syria that religious debate became an

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The Arabs had a broad understanding of what has been said in the Qur'an about God's essence and attributes, the beginning and end of the world and similar questions; and that was enough for the purposes of their simple and unadulterated beliefs. As against this, complex debates arose in Persia and Syria, as they were bound to do with the development of civilisation and the evolution of thought. The purity of God's nature, anthropomorphism, the identity or separateness of God's essence and attributes, contingency, eternity and many like questions cropped up, discussion of each of which became an independent discipline. Gradually even common questions of belief were subjected to hairsplitting, and divergence of views crystallised into different schools of thought, such as the Qadariyyah, the Marjiyyah, the Mu'tazilah, the Jahmiyyah, the Kharijiyyah and the Rafidah. So widespread did the evil of schism become that even simple believers, who had until then shunned controversies of this kind, were compelled to get involved in them, if for no other reason than to refute what they considered to be wrong. This gave rise to the science of *Kalam,* which in due course acquired such a high status that important Imams, as, for example, Ash'ari and Abu Mansur Maturidi, were proud of their contributions to it.

Although *Kalam,* after being systematised, subsequently became an academic discipline, yet at that time all that was needed for its acquisition was a keen intelligence and a modicum of religious learning. With his nimble Iranian mind and his gift of originality, Abu Hanifa was out for it. As for religious learning, narration of Traditions and discussion of theological questions were so common at Kufah that any man of ordinary intelligence could work up a fair acquaintance with them by simply attending learned gatherings. Abu Hanifa in this way acquired so much competence in *Kalam* that even leading masters of it used to fight shy of engaging in

debate with him. In connection with his trade he had frequently to visit Basrah, which was the main forum of all the contending schools and particularly the Kharijites. He fought many battles of wit with members of the Ibadiyyah, the Sughriyyah and the Hashwiyyah, always coming out victorious. Although in course of time he gave up taking part in these debates and devoted himself wholly to *Fiqh* for the rest of his days, yet he never completely lost his gusto for *Kalam*, and records of his debates with the Kharijites and others are masterpieces of this *genre.* We shall recount some of them in detail when we discuss his works.

Abu Hanifah grew out of his penchant for *Kalam* with the maturing of his understaing and experience. How this came about is narrated in an interesting manner in the *'Uqud al-Juman.* In early youth, the story says, he thought *Kalam* to be the highest of disciplines because it appeared to him to be the foundation of all faith. But latter it dawned on him that the great Companions had always avoided getting embroiled in controversies of the kind that are the speciality of *Kalam*, although no one understood the truth of these matters better than they did. They devoted most of their labours to questions of *Fiqh*— to the learning and teaching of them. He also critically examined the way of life of the people whom he found engaged in *Kalam,* and was disillusioned to discover that they did not have anything like the moral and spiritual qualities which had distinguished the great ones of earlier times. About this time a woman one day posed to him a question as to how a man could divorce his wife in accordance with the *Sunnah*. He did not know the answer. So he advised the woman to go to Hammad, whose school was near by, and put the question to him. He also requested her to tell him the answer on her way back. The woman returned some time later and told him what answer Hammad had given her. This revealed to him how little he knew and drove him to join Hammad's school at once.

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make up his mind as to which of the various disciplines that suggested themselves to him he should choose. His first thought was of *Kalam*, but there was a nagging doubt in his mind as to whether it would be worthwhile labouring at a discipline the fruits of which he could not openly display for fear of being called a heretic. As regards literature and *qira'at*, they were not of much use unless one wanted to become a schoolmaster. So far as poetry was concerned, it was nothing more than a collection of satires and false panegyrics. As for *Hadith*, learning it needed a long time and, besides, one had to associate so much with young people that one was always afraid of being criticised and even derided. Ultimately, he settled for *Fiqh*, which appealed to him as a discipline dealing with both the religious and the secular requirements of people. This story, however, is completely false and is refuted by all reliable accounts. The remarks attributed to the Imam about the various disciplines are so preposterous that even an illiterate man could not have made them. If we were to believe this story, we should have to conclude that Abu Hanifah took no interest at all in *Hadith* and *Kalam,* whereas the fact is that in these disciplines he has an undeniably high standing. What is probable is that after having acquired all the disciplines the Imam decided to specialise in *Fiqh,* because it seemed to him to cater to the needs of the common people. Different narrators seem to have put different kinds of gloss upon this simple probability, as is clear from the fact that, although the story had already been recorded, the author of the *'Uqud al-Juman* has narrated it in a very different way. I have before me Ibn Jazlah's summary of the *Ta'rikh-i-Baghdad,* in which also the story is related; but there the remarks quoted above about the various disciplines are attributed to other persons and Abu Hanifah is reported only to have agreed with them. Hammad was a famous *Imam* of Kufah and an acknowledged master of *Fiqh* in his time. He had heard Traditions from the Prophet's personal attendant, Anas, and had associated with some of the most prominent *Tabi'in.* His was the most largely attended school at Kufah and counted among its pupils men of the eminence of Mus'ir and Shu'bah. He was the last surviving representative of the school

of *Fiqh* originated by the Companion 'Abd-Allah b. Mas'ud. He was also fortunate enough to be rich, which enabled him to devote himself fully to his teaching. For these reasons Abu Hanifah, when he decided to learn *Fiqh,* chose him for his teacher. The method of teaching in those days was that the teacher would lecture on a particular subject and the pupils try to memorise what he said, sometimes also taking notes. On the first day, Abu Hanifah was made to sit in the row on the teacher's left, which was the row for beginners; but before many days had passed Hammad marked him out as the pupil with the best memory and intelligence in the class and made him sit right in front of him ahead of every other pupil.[2]

Although Abu Hanifah had about the same time started learning *Hadith* also, about which we shall have something to say in detail later on, yet he regularly attended Hammad's lectures. We have it on his own authority that he did so for two years, after which he began to think of starting his own class, but was prevented from doing so by respect for his teacher. As luck would have it, Hammad went to Basra to attend the funeral of a relative, appointing Abu Hanifah to take the class during his absence. While lecturing in this way, Abu Hanifah was frequently asked questions on which Hammad had narrated no Tradition to him. He exercised his own judgment in answering these questions, keeping notes of his answers with the idea of showing them to Hammad later on. When Hammad returned from Basrah two months later, he showed him the notes. They dealt with sixty questions. Hammad found only twenty of the answers wrong. This decided Abu Hanifah to remain Hammad's pupil.

Hammad died in 120 H. Although Abu Hanifah attended the *Fiqh* lectures of other teachers as well, there is no doubt that he received his training mainly from Hammad, for whom he had the profoundest respect.

As we have already mentioned, Abu Hanifah, while he was

2. *'Uqud al-Juman,* Chapter 7.

attending Hammad's *Fiqh* lectures, started learning *Hadith* also, because he felt that it would not be possible for him to do the kind of original work he wanted to do in *Fiqh* without full knowledge of *Hadith*.

At that period the teaching of *Hadith* was going on vigorously in all Islamic countries, and everywhere authorities and narrations were being recorded. The Companions, at least ten thousand in number, had spread far and wide and become the nucleus of a great system of authorities and narrations. Wherever one of them was heard of, people flocked to him from far and near, eager to hear first-hand accounts of the Prophet and get authentic answers to questions of law exercising their minds. In this way a large body of *Tabi'in,* who were called disciples of the Companions, had come into existence with its ramifications in all the Islamic countries. The cities which had comparatively large numbers of Companions or *Tabi'in* acquired the name of *dar al-'ilm* or centres of learning. Outstanding among these were Mecca, Yemen, Basrah and Kufah —all of them cities full of mementoes of Islamic history.

Kufah, Imam Abu Hanifah's place of birth and residence, was in the vanguard of this expansion of Islamic learning. As the small territory of Arabia was becoming inadequate to accommodate the multiplying Arab population, the Caliph 'Umar wrote to Sa'd b. Abi Waqqas, who was then stationed at Mada'in after having overthrown the empire of Chosroes, asking him to found a city to which some of the surplus Arab population could migrate. Sa'd selected the site of Kufah and laid the foundation-stone of the city in 17 H. The city began with a few simple buildings. As soon as the first few buildings were completed, tribesmen from different parts of Arabia began to flock to it, so that in a short while it became an extension of Arabia. 'Umar fixed stipends for twelve thousand settlers from the Yemen and eight thousand from Nazar. Within a short time Kufah became such an important Arab settlement that 'Umar used to call it by names like "the Standard of Allah," "the Treasure-house of the Faith" and "the Head of Arabia". He used to address his letters to Kufah thus: "To the Head of Islam" or "To

the Head of Arabia". The Caliph 'Ali for his part made the city his capital. One thousand and fifty Companions, including twenty-four who had fought in the Battle of Badr by the side of the Prophet, came over to Kufah, and most of them settled there permanently. The presence of these Companions engendered so much popular interest in *Hadith* and *riwayat* that practically every house in the city became a school for these disciplines.[3]

Basrah was also founded under the orders of 'Umar and soon became a rival to Kufah in learning and particularly in *Hadith.* Like Mecca and Medina these cities were regarded as twin centres of learning. Most of the personalities whom Dhahabi has described as transmitters of *Hadith* in the second and third periods of Islam and on whom he has written full notes in his work, such as Masruq b. al-Ajda', 'Ubaidah b. 'Umar, Aswad b. Yazid, Abu 'Umar al-Nakha'i, Dharr b. Hubaish, Rabi' b. Khuthaim, 'Abd al-Rahman b. Abi Laila, Abu 'Abd al-Rahman al-Salami, Shuraih b. al-Harth, Shuraih b. Hani, Abu Wa'il Shaqiq b. Salamah, Qais b. Hazim Muhammad b. Sirin. Hasan al-Basri, Shu'bah b. Hajjaj and Qatadah b. Da'amah, were residents of these two cities. Sufyan b. 'Ainiyyah, regarded as one of the *imams* of *Hadith,* often used to say that there were three important centres of *Hadith* learning: Mecca for ceremonials of *Hajj,* Medina for *Qira'at,* and Kufah for what was lawful and what unlawful, that is to say, *Fiqh.*[4]

For learning *Fiqh* Abu Hanifah had thought it enough to attend Hammad's lectures; but when it came to learning *Hadith* he found that this would not do, for here one could not manage with intelligence and originality alone, but along with skill in criticism had to have a stock of Traditions also. The Traditions were at that time all scattered and still uncompiled, with the result that even great masters remembered not more than two or three hundred of them each. This number was not enough even for answering fundamental questions. Besides, such a large variety of *turuq* (ways of transmission) had come into existence that unless one knew a

3. All these facts are given in detail in Baladhuri's *Futuh al-Buldan* (chapter on the monuments of Kufah), *Mu'jam al-Buldan,* and *Fath al-Mughith,* P. 382.

4. *Tadhkirat-ul-Huffaz.*

hadith according to a number of *turuq* one could not be sure of its meaning and implications. Association with Hammad and maturing years had combined to make Abu Hanifah realise this. So he devoted himself heart and soul to collecting Traditions.

There was practically no *muhaddith* at Kufah at whose feet Abu Hanifah did not sit to learn Traditions. Abu'l-Mahasin Shafi'i, giving a list of Abu Hanifah's *Hadith* teachers, says that ninety-three of them belonged to Kufah. Although, unusually enough, the *Tahdhib al-Tahdhib,* the *Tahdhib al-Asma',* the *Tadhkirat al-Huffaz,* etc., do not list the Imam's teachers, yet indications are available in these books that he learned Traditions from a large number of men, of whom twenty-nine were residents of Kufah, most of them being *Tabi'in.* Of his Kufah teachers Sha'bi, Salamah b. Kuhail, Muharib b. Dithar, Abu Ishaq Sab'i, 'Aun b. 'Abd-Allah, Samak b. Harb, 'Amr b. Murrah, Mansur b. al-Ma'mar, A'mash, Ibrahim b. Muhmmad, 'Adi b. Thabit al-Ansari, 'Ata' b. al-Sa'ib, Musa b. Abi 'A'ishah and 'Alqamah b. Murthid were particularly great authorities on *Hadith, sanad* and *riwayat.* The line of transmission of Sufyan Thauri, Ahmad b. Hanbal and several others generally goes back to these personalities.

Sha'bi, it will be recalled, was the one who first of all aroused in Abu Hanifah an interest in learning. He narrated Traditions he had heard from a large number of Companions. It is said that he had met as many as five hundred of them, and he was one of four men acknowledged to be accomplished scholars of *Hadith* in Iraq, Arabia and Syria. According to Zuhri, there were only four real scholars: Ibn al-Musayyib at Medina, Hasan at Basrah, Makhul in Syria and Sha'bi at Kufah. 'Abd-Allah b. ' Umar after attending a lecture of Sha'bi on *maghazi* (military campaigns) remarked, "By Allah, this man knows the subject better than I do." Shafi'i held the office of *qadi* for a long time and was highly respected by the Caliphs and high State officials. He died in 104 or 106 H.

Salamah b. Kuhail was a famous *Muhaddith* and *Tabi'i.* He had heard Traditions from Jundab b. 'Abd-Allah, Ibn Abi Aufa,

Abu'l-Tufail and many other Companions. Ibn Sa'd describes him as the transmitter of a large number of Traditions. Sufyan b. 'Ainiyyah, Shafi'i's teacher, called him one of the pillars of *Hadith.* Ibn Mahdi named four men as the most accurate narrators of Traditions at Kufah, viz. Mansur, 'Amr b. Murrah, Abu Hasin and Salamah.

Abu Ishaq Sab'i was one the high-ranking *Tabi'in* and had heard Traditions from 'Abd-Allah b. 'Umar, Ibn Zubair, Nu'man b. Bashir and Zaid b. Arqam, and from a number of Companions whose names have been given by Nawawi in the *Tahdhib al-Asma'.* 'Ajali says that he had met thirty-eight Companions face to face and heard Traditions from them. 'Ali b. al-Madini, teacher of Bukhari, estimates the number of his masters in *Hadith* at a minimum of three hundred. Of these Hafiz Ibn Hajar has given a detailed account in the *Tahdhib.*

Samak b. Harb was a leading *Tabi'i* and *Muhaddith.* Imam Sufyan Thauri acknowledges that he never made a mistake in *Hadith,* and he himself claims to have met eighty Companions.

Muharib b. Dithar had heard Traditions from 'Abd-Allah b. 'Umar, Jabir and others. Sufyan Thauri says that he never saw a more pious man. Dhahabi regards his pronouncements as conclusive. Imam Ahmad ibn Mu'in, Abu Zar'ah, Daraqutni, Abu Hatim Ya'qub, Ibn Sufyan and Nasa'i regard him as reliable. He was a *qadi* at Kufah and died in 116 H.

'Aun b. 'Abd-Allah b. 'Utbah b. Mas'ud had heard Traditions from Abu Hurairah and 'Abd-Allah b. 'Umar, and was a reliable narrator and a pious man.

Hisham b. 'Urwah was a venerable and well-known *Tabi'i,* who had heard Traditions from many Companions and was the teacher of several great *Imams* of *Hadith,* such as Sufyan Thauri, Malik and Sufyan b. 'Ainiyyah. He came to Kufah in the time of Abu Ja'far Mansur and people heard Traditions from him while he was there. The Caliph Mansur held him in high esteem and on

one occasion gave him a grant of a hundred thousand dirhams. He himself led the prayers at Hisham's funeral. Ibn Sa'd says that he was reliable and had a large stock of Traditions. Abu Hatim describes him as an *imam* of *Hadith.*

Sulaiman b. Mihran, better known as A'mash, was a famous *imam* of Kufah. Of the Campanions he had met Anas b. Malik and had heard Traditions from 'Abd-Allah b. Abi Aufa. Sufyan Thauri and Shu'bah were his pupils.

The second city where Abu Hanifah received his education in *Hadith* was Basrah, a rich treasure-house of *Hadith* because of the presence of Hasan Basri, Shu'bah and Qatadah. It is surprising that, although Hasan Basri lived up to 110 H., there is no evidence that Abu Hanifah attended his lectures; but so far as Qatadah is concerned, many *muhaddithin* have mentioned that Abu Hanifah was a pupil of his. Similarly, it appears from several passages in the '*Uqud al-Juman* that he heard Traditions related by Shu'bah and that the latter during his own lifetime permitted him to give *fatwas* and narrate Traditions.

Qatadah was a great *muhaddith* and a famous *Tabi'i,* who had heard Traditions from Anas b. Malik 'Abd-Allah b. Sarakhs, Abu'l-Tufail and other Companions. He was one of the two most famous pupils of Anas. What he is particularly famous for is that he used to relate Traditions with meticulous faithfulness, so that there was not the slightest difference between words and meanings. There is a surprising story about his retentive memory related by 'Amr b. 'Abd-Allah. Sa'id ibn al-Musayyib from whom he used to learn *Fiqh* and *Hadith* daily, said to him one day: "You ask me a lot of questions every day. But do you remember the answers I give you?" "I remember every word of what you tell me," replied Qatadah, and then he began to repeat what he had learnt from Sa'id giving the day and date of each lesson. Astonished, Sa'id remarked, "God has created men like you also !" It was because of his memory that he used to be called *ahfaz al-nas* (the one who has the best memory of all men). Ahmad b. Hanbal praises him

greatly for his knowledge of *Fiqh, Ikhtilaf* (difference of opinion) and exegesis. "In these subject," he says, "Qatadah may have had equals, but had no superior at all." Ibn Hajar gives a detailed account of him in the *Tahdhib al-Tahdhib,* which shows how high he ranked.

Shu'bah also was a leading *muhaddith,* who knew by heart two thousand Traditions. Sufyan Thauri has acclaimed him as the *amir al-mu'minin* of *Hadith.* He was the first in Iraq to devise rules of criticism and appraisal. Shafi'i used to say that if there had been no Shu'bah, *Hadith* would have had no vogue in Iraq. He died in 160 H. On hearing of his death Sufyan Thauri said, "The art of *Hadith* has died with him."

Shu'bah was deeply attached to Abu Hanifah and used often to praise his intelligence and quick understanding in his absence. On one occasion he said, "Just as I know that the sun is bright, I know for certain that learning and Abu Hanifah are doubles of each other." Somebody having asked Yahya b. Mu'in, who was one of Bukhari's teachers, what he thought of Abu Hanifah, he said: "It is enough for me to know that Shu'bah permitted him to teach *Hadith* and narration. Shu'bah after all was Shu'bah."[5]

Among the other Basrah masters from whom Abu Hanifah heard Traditions 'Abd al-Karim b. Umayyah and 'Asim b. Sulaiman al-Ahwal were prominent.

Although Abu Hanifah had collected a vast store of Traditions in these schools, yet it was necessary for him to go to the two holy cities of Mecca and Medina, the fountainheads of religious learning, in order to complete his education. It is not known definitely when he performed his first journey to the holy cities; but it seems most probable that he did so at an early stage of his educational career. The historian Ibn Khallikan[6] quotes Waki' as narrating a story connected with this journey, which he claims to have heard from Abu Hanifah himself. A barber who shaved his head during the

5. *'Uqud al-Juman.* Chapter 10.
6. Ibn Khallikan, *Ta'rikh,* note on 'Ata' b. Abi Rabah.

Pilgrimage rebuked Abu Hanifah several times. When he asked what he had to pay for the shave, the barber said, "One does not discuss what one has to pay for *Hajj* rites." So Abu Hanifah quietly let him go on to trim his beard. The barber suddenly remarked, "One does not remain silent during *Hajj*; keep saying your *takbir*." When after finishing with the barber he got up to go, the barber commanded him to say two *rak'ats* of prayer before going. Surprised, Abu Hanifah asked him where he had learnt all these points of law. "I owe them all to 'Ata' b. Abi Rabah," replied the barber. This story suggests that Abu Hanifah was still a beginner then.

Abu Hanifah went to Mecca as a student at a time when that city was a busy centre of education. A number of acknowledged masters of *Hadith*, who had had access to the Companions, had established their own schools there. The biggest and most respected of these was 'Ata' b. Abi Rabah's school. 'Ata' was a famous *Tabi'i*, who had associated with most of the Companions and acquired from this association the status of an authority. He had heard Traditions from 'Abd-Allah b. 'Abbas, Ibn 'Umar, Ibn Zubair, Usamah b. Zaid, Jabir b. 'Abd-Allah, Zaid b. Arqam, 'Abd-Allah b. Sa'ib, 'Aqil, Rafi', Abu'l-Darda', Abu Hurairah and many other Companions. He himself claims to have met two hundred men who had associated with the Prophet. The leading Companions all acknowledged his learning. 'Abd-Allah b. 'Umar, the son of the Caliph 'Umar, often used to say, "Why do people come to me when 'Ata' b. Abi Rabah is there for them to go to?" During *Hajj* there used to be a government proclamation prohibiting anybody but 'Ata' from giving *fatwas*.[7] Many great *imams* of *Hadith*, such as Auza'i, Zuhri and 'Umar b. Dinar, were alumni of his school.

When Abu Hanifah presented himself to 'Ata' b. Abi Rabah for enrolment, the latter questioned him about his beliefs. The Imam replied: "I do not speak ill of people of the earlier generations (*aslaf*), do not call sinners *kafirs* and believe in *qada'* and *qadr*." 'Ata' thereupon permitted him to attend his lectures.[8] His

7. For an account of him, see Ibn Khallikan and books of *rijal*.
8. Ibn Jazalah, *Mukhtasar Ta'rikh-i-Khatib Baghdadi*.

intelligence and intellect made an increasing impression on the teacher, so that there soon came a stage where, as soon as he came, 'Ata' would order room to be made for him to sit close to him.[9] As long as 'Ata' lived—he died in 115 H.—Abu Hanifah used to attend his lectures whenever he visited Mecca. Of the other *muhaddithin* of Mecca whose *Hadith* classes Abu Hanifah attended one who deserves special mention is 'Ikrimah. He was a slave and pupil of 'Abd-Allah b. 'Abbas, who educated him with great care and personal attention, making him so proficient that he, during his own lifetime, gave him the authority to exercise personal judgment and give rulings. 'Ikrimah had learnt Traditions and points of *Fiqh* from many other Companions, such as the Caliph 'Ali, Abu Hurairah, 'Abd-Allah b. 'Umar, 'Aqabah b. 'Umar, Safwan, Jabir and Abu Qatadah. Among those who were his pupils in *Hadith* and exegesis were at least seventy famous *Tabi'in*. Sha'bi used to say that there had never been a man who knew the Qur'an better than 'Ikrimah. Sa'id b. Jubair, a top-ranking *Tabi'i*, was once asked whether he knew of someone more learned than himself. He named 'Ikrimah.

About the same time, that is, before 102 H., Abu Hanifah paid a visit to Medina, the treasure-house of *Hadith* and the Prophet's home during his last days. The Companions having all departed one after another, seven of the *Tabi'in* living at Medina had become the central figures in *Fiqh* and *Hadith*, and all questions of law were generally referred to them. These people had received their education from leading Companions and were acknowledged throughout the Islamic world, in every corner of which their pupils were running schools. They were all contemporaries and constituted a consultative body to which all *Shari'ah* questions were referred.[10] Medinan *Fiqh*, which was codified by Malik, is based largely on their rulings.

When Abu Hanifah arrived at Medina, only two of these eminent men, namely, Sulaiman and Salim b. 'Abd-Allah, were

9. *'Uqud al-Jumun*, Chapter 10.
10. *Fath al-Mughith*.

alive. Sulaiman who had been a slave of the Lady Maimunah, one of the Prophet's wives, ranked second among the seven. Salim was a grandson of 'Umar and had been taught by his father. Abu Hanifah attended on both these *Tabi'in* and learnt Traditions from them.

Although this completes the account of Abu Hanifah's travels as a regular student, he did not cease to be a student until the end of his life. He used frequently to visit the holy cities and sojourn there for months together. Especially during *Hajj* he used to meet and learn all he could from the eminent men who came to Mecca from different parts of the Islamic world, not only to perform the Pilgrimage but also to teach and learn. Among these were Auza'i and Makhul Shami, the latter of whom was acclaimed as an *imam* in Syria. Abu Hanifah took a *sanad* in *Hadith* from both of them. By that time the fame of his intellectual gifts and originality had spread far and wide; and it included the reputation, given to him by superficial observers, of being a *qayyas,* i.e. one who made deductions by analogy.

About that time 'Abd-Allah b. Mubarak, a well-known pupil of Abu Hanifah's, went to Beirut to complete his *Hadith* education under Auza'i. At the very outset Auza'i asked him, "Who is this man Abu Hanifah who has appeared at Kufah. I hear he makes all sorts of new points about religion." 'Abd-Allah went home without giving a reply, but returned two or three days later with some parts of a manuscript, which he presented to Auza'i. On the title page were written the words, "Says Nu'man b. Thabit." Auza'i started reading the manuscript and went on doing so for a long time, fully absorbed. Then he asked 'Abd-Allah: "Who is this worthy, Nu'man?" 'Abd-Allah replied: "A *shaikh* of Iraq in whose company I have sat." "A great man," observed Auza'i. "This is the same Abu Hanifah," Abd-Allah quietly put in "whom you called an innovator."[11] Auza'i expressed much regret over his mistake and made it a point to meet Abu Hanifah when he went next for *Hajj.* The two of them discussed the questions dealt with in Abu Hanifah's

11. *Mukhtasar Ta'rikh-i-Khatib Baghdadi.*

manuscript. 'Abd-Allah b. al-Mubarak happened to be present. He reports that Abu Hanifah spoke so beautifully on the questions that Auza'i was astonished. After Abu Hanifah's departure 'Abd-Allah stayed on. "This man's greatness," said Auza'i to him, "has made people jealous of him. My suspicions about him were completely wrong, and I am very sorry for them."

It is a historically established fact that Abu Hanifah was a pupil of Auza'i in *Hadith.* He probably attended his lectures during the period that we are speaking of.

Abu Hanifah had a similar encounter with Imam Baqir. He called on Baqir on his second visit to Medina. After the introduction had been made by a companion of Abu Hanifah's, Baqir addressed him thus: "So you are the man who contradicts the Traditions of my grandfather on the basis of analogy."

"God forbid," replied Abu Hanifah. "Who dare contradit *Hadith?* After you resume your seat, sir, I shall explain my position."

Then the following conversation took place:

Abu Hanifah : "Who is the weaker, man or woman?

Bagir : "Woman."

Abu Hanifah : "Which of them is entitled to the larger share in the inheritance?"

Baqir : "The man."

Abu Hanifah : "Now, if I had been making deductions by analogy, I should have said that the woman should get the larger share, because on the face of it the weaker one is entitled to more consideration. But I have not said so. To take up another subject, which do you think is the higher duty, prayer or fasting ?"

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Baqir : "Prayer."

Abu Hanifah : "That being the case, it should be permissible for a woman during menstruation to postpone her prayers and not her fasts. But the ruling I give is that she can postpone her fasting and not her prayers.

Baqir was so highly pleased with this dialogue that he got up and kissed Abu Hanifah's forehead.[12]

Abu Hanifah sat for a long time at Imam Baqir's feet and acquired from him much valuable knowledge of *Fiqh* and *Hadith* not available anywhere else. Shi'ahs and Sunnis are agreed that Abu Hanifah derived much of his learning from Baqir. He learned a great deal from the Imam's son, Ja'far Sadiq also, which fact is generally mentioned in the history books. Ibn Taimiyyah, however, denies this on the ground that Abu Hanifah and Ja'far Sadiq were contemporaries and equals, which ruled out the probability of the former being the latter's pupil. But I consider this sheer impudence and lack of comprehension on Ibn Taimiyyah's part. For all his greatness as an original thinker and master of *Fiqh,* Abu Hanifah could not compare in learning with Imam Ja'far Sadiq. The *Ahl-i-Bait* were the fountainhead of *Hadith* and *Figh* and, in fact, all religious learning. "The master of the house knows best what is in it," to quote a well-known Arabic saying.

At one time, as we have mentioned earlier, Abu Hanifah had visited the holy cities as a student; but there soon came a time when news of his intended visits to Arabia travelled ahead of him, so that thousands of people assembled to meet him in every city or village that he passed through. On one of his visits to Mecca an interesting incident took place. Such a large audience, which included scholars of both *Hadith* and *Fiqh,* had gathered before his arrival that there was not an inch of space left unoccupied in the meeting-place and people were falling over each other in their eagerness to question and listen to him. Unable to keep order, the Imam said, I wish somebody asked my host to come and manage

12. *'Uqud al-Juman,* Chapter 16.

this crowd." One of the People present, Abu 'Asim Nabil, offered to go and call the host, but added that he had a few questions still to ask. The Imam asked him to come forward and listened to his questions with special attention in this process calling the host was forgotten. After finishing with Abu 'Asim, the Imam became busy with another student, listening to and answering his questions. After a little while he remembered that somebody had offered to go and bring the host. He inquired who it was who had made the offer. Abu 'Asim answered that it was he. "Then why haven't you gone?" asked the Imam. Abu 'Asim retorted with a polemicist's wit: "I never said I would go at once. I'll go when I am free." "In ordinary conversation," the Imam corrected him, "there is no room for equivocations of this kind. Your words were to be taken in the sense in which the common people would take them."[13] In an indirect manner this was a juristic ruling, which the Imam gave *en passant.*

The Imam's teachers used to treat him with so much respect that people used to be astonished. Muhammad b. al-Fadl relates how, on one occasion, when Abu Hanifah, accompanied by him, called on Khudaib to inquire about a Tradition, the latter stood up to receive him and with much respect made him sit next to him. "What is the *hadith* about an ostrich egg?" asked Abu Hanifah. Khudaib replied: "Abu 'Ubaidah narrated from 'Abd-Allah b. Mas'ud that if an ostrich egg is broken by one who is clad in *ihram* he will have to pay its price." 'Amr b. Dinar,[14] a famous *muhaddith* of Mecca, whenever Abu Hanifah was present in his class, would not address anybody else.

In spite of the high esteem enjoyed by him, Abu Hanifah did not think it beneath his dignity to learn from anybody. Although Malik was thirteen years his junior, he often attended his lectures and heard Traditions from him.

Dhahabi writes in the *Tadhkirat cl-Huffaz* that Abu Hanifah used to sit before Malik as one sits before one's teacher. Some

13. *Al-Jawahir al-Mudiyyah,* note on Abu 'Asim al-Nabil.
14. *'Uqud al-Juman,* Chapter 10.

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uncomprehending people have attributed this to a consciousness of his own inferiority on the part of Abu Hanifah, but I think that this was a sign of nobility of character and a token of recognition due from one great scholar to another. Malik for his part reciprocated this respect. This is instanced by a story reported to have been told by 'Abd-Allah b. al-Mubarak. One day, while he was sitting with Malik, an older man came, who was received with extreme respect by the Imam and made to sit beside him. After he had gone, the Imam said to 'Abd-Allah: "Do you know who this man was? He was Abu Hanifah of Iraq, who, if he wanted to, could prove this pillar to have been made of gold." After some time another man came. The Imam received him also respectfully, but not as respectfully as he had received Abu Hanifah. After his departure the Imam told those present that this was Sufyan Thauri.

The great masters of Hijaz and Iraq followed different principles of *riwayat* (narration) and a variety of methods of teaching. Some of them thought writing to be more reliable, while others as, for example, Ibrahim and Sha'bi, thought memory to be sufficient authority. The majority considered it permissible to leave out a part of a Tradition in narrating it, so long as the meaning was not affected. Others were totally opposed to this. One group held the view that a narration could not be made unless the narrator was physically present. Abu Hanifah's teacher, Shu'bah, belonged to this group. Another group admitted narration from a writing while the narrator was present behind a veil. Zurhi's practice was to explain the meanings and implications of the words along with narrations. Some people were severely opposed to this, so much so that on one occasion a man told Zuhri not to mix his own words with a *hadith Nabawi* (i.e. a *hadith* of the Prophet). As regards the method of teaching, Malik liked his pupils to read aloud, while he himself listened. Some people objected to this. Yahya b. Salam, for example, left Malik's school simply on this ground. There were a number of differences in other matters also, which have been recorded in detail in the *Fath al-Mughith.* One main reason why Abu Hanifah attached himself to so many masters and attended so many schools was that he wanted to acquaint himself with the

different principles and methods in vogue so that by a comparative study of them he could arrive at some system of his own. What reforms he made in the principles of *Fiqh* I shall have occasion to describe later on.

It was a matter of good fortune for Abu Hanifah that by the time he started his education the method of teaching *Hadith* had been systematised. Until then the common practice had been oral narration: some *imams* of *Hadith* went so far as to consider reduction to writing as impermissible. It was the Caliphs 'Umar b. 'Abd al-'Aziz who took the initiative in introducing writing. He wrote as follows in a letter to the citizens of Medina around 101 H.: "All Traditions of the Apostle of Allah should be recorded, lest they are lost. I fear the end of this science and the passing away of its masters." He sent similar orders to other important cities as well. In obedience to his orders Zuhri prepared at Medina a collection, copies of which were published in all Islamic countries.[15] From that time the practice of compiling Traditions became common and scholars of *Hadith* everywhere made collections of them. Even Abu Hanifah's teacher, Sha'bi, despite his insistence on oral narrations, used to keep a compilation by his side.

The method of education also underwent much improvement. The teacher would sit in a high seat with a *Hadith* compendium in his hands, and the students, seated around him, would take down whatever he spoke. If the audience was too large for the people on the other fringes to hear the teacher, a man would stand up from among the audience and repeat the teacher's words; but it was compulsory that he should not alter the sense and, as far as possible, not even the words themselves. The man chosen to do the relaying was, therefore, always one with a strong memory and adequate knowledge of *Hadith,* besides having a good pronunciation and a loud voice. Thus in Shu'ba's classes Adam b. Abi Ayas and in Malik's classes Ibn 'Ulliyyah used to render this service.

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15. *Fath al-Mughith,* p. 239; the *Muqaddamah* of Qastalani to his *Sharh* of Bukhari, pp. 6-13.

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compiling a list as long as the one given in the *'Uqud al-Juman*. However, it is not the large number of Abu Hanifah's teachers but his diligent research which is praiseworthy. He understood very well that the longer the line of transmission of a Tradition, the greater the probability of modification in the course of transmission. That was why he mostly chose for his teachers *Tabi'in* who were only at one remove from the Prophet, or people who had associated for long with *Tabi'in* and were regarded as models of learning, honesty and piety. He seldom, if ever, chose a teacher who did not belong to either of these categories. His method of learning also was different from that of the common run of students. He was fond of discussion and individual judgment from the very beginning, and even the opposition of his teachers could not keep him away from them.

One day, while Hammad and he were walking with A'mash to see him off, it became time for the *maghrib* prayer, but there was no water to be found anywhere for the *wudu* (ablution). So Hammad ruled that *tayammum* (performing the *wudu* with sand) would be in order. Abu Hanifah, however, disagreed, saying that they ought to wait for water to become available till a few minutes before the expiry of the time prescribed for the *maghrib* prayer. It so happened that they did find water after walking a little more distance and said their prayers after performing the *wudu* with it. It is reported that this was the first occasion on which Abu Hanifah disagreed with a teacher of his. He was probably, in the early stages of his education at the time.

Abu Hanifah's teacher, Sha'bi, was of the firm opinion that expiation of sin was not possible. One day, while teacher and pupil were going together in a boat, the question cropped up. Abu Hanifah said: "There certainly is expiation of sin; for God has prescribed atonement for *zihar* (pronouncement of the words 'thou art like a mother to me' as a formula of divorce) and has also clearly said that *zihar* is a sin." Sha'bi could not think of a reply and angrily said: "You are a great analogist. "[17]

17. *'Uqud al-Juman*, Chapter 8.

Somebody asked 'Ata' b. Abi Rabah the meaning of the *ayat:* "We gave them their families and along with them the likes of them." 'Ata's explanation was that God had brought back to life Ayyub's children and given him more children along with them. Abu Hanifah objected: "How can children not born from a man's loins be called his children ?"[18]

One main source of Abu Hanifah's great learning was his association with a number of men of high attainments. In the cities where Abu Hanifah spent his life, namely, Kufah, Basrah, Mecca and Medina, one breathed in an atmosphere laden with religious traditions. Fondness for the company of scholars and for participating in learned gatherings was inborn in him. Besides, he had become so famous that wherever he went thousands of people gathered round him for interviews discussions and debates with him.

18. *Mukhtasar Ta'rikh-i-Khatib Baghdadi.*

Chapter III

Lectures, Rulings and Later Life

Although Imam Abu Hanifah had acquired the status of a *mujtahid* (a final authority) during Hammad's lifetime at a comaratively early age, –he was around forty years old at the time of Hammad's death, –yet his sincere regard for his teacher did not permit him to establish a school of his own while the teacher was still alive. It is difficult in our day to imagine the love and reverence that people had for their teachers in those days. We have it on the Imam's own authority that as long as Hammad lived he never stretched his feet towards his house. Hammad died in 120 H. As after Ibrahim Nakha'i's death he was the sole surviving authority on *Fiqh,* his death was a great loss to *Fiqh* studies at Kufah. Hammad was survived by an able son, who was installed in his father's chair; but as his real interest lay in lexicography and literature, he soon made room for Musa b. Kathir, a senior pupil of Hammad's in both age and experience. Musa was not an expert in *Fiqh,* but had had the advantage of associating with a number of eminent authorities and was, therefore, looked up to. He gave lectures until he went for *Hajj,* when Abu Hanifah was approached to accept the chair.

In his youth Abu Hanifah had often longed for the professorial chair, but now that it was at last offered to him he declined it, feeling unequal to its responsibilities. However, the people's insistence prevailed and he accepted the chair—not without misgivings, though. 'Abu'l-Mahasin writes thus on this subject: "About that time he saw himself digging up the Prophet's grave in a dream. He woke up frightened and thought that the dream was a hint from Heaven at his unsuitability for the position. However, Ibn Sirin, an expert in the interpretation of dreams, interpreted the dream for him as symbolising the revival of a dead branch of learning. Satisfied, Abu Hanifah settled down to his teaching." The dream has been mentioned by all historians and *muhaddithin,* and the probability is that Abu Hanifah actually dreamed it. But

that part of the story which relates to interpretation by Ibn Sirin is obviously false; for Ibn Sirin died long before 110 H. Whatever the truth, Abu Hanifah got down to teaching in right earnest. In the beginning only Hammad's former pupils attended his classes, but in a few days he became so famous that most of the Kufah schools closed down and became part of his school. Even his teachers, such as Mus'ir b. Kudam and A'mash, began to attend his lectures and induced others to do so.

There was no part of the Islamic world except Spain which was not represented in his classes. It is not possible to count all the places from where his students came, but we give here the names of a few regions and cities: Mecca, Medina, Damascus, Basrah, Wasit, Mosul, Algiers, Raqqah, Nisibin, Ramlah, Egypt, Yemen, Yamamah, Bahrain, Baghdad, Ahwaz, Kirman, Ispahan, Hulwan, Astrabad, Hamadan, Nihawand, Rayy, Qumas, Damghan, Tabaristan, Georgia, Nishapur, Sarakhs, Nisa, Bukhara, Samarqand, Kas, Sana'an, Tirmidh, Herat, Nihistar, Alzam, Khwarazm; Sistan, Mada'in, Masisah and Emessa.[1] In short, his territory as a teacher was conterminous with the territory of the Caliph.

Gradually he acquired so much political influence in Iraq that he began to be suspected of complicity in every revolution in that country. Shah 'Abd al-'Aziż says in his *Tuhfah* that the Imam took part in the revolt led by Zaid b. 'Ali against the Umayyads. The compilers of the *Namah-i-Danishwaran* have also made this statement. I, however, do not believe it. I have not come across it in any of the books of history and biography that I have consulted. Had it been true, the fact would have been too important to find no mention in one or other of these books.

Zaid b. 'Ali's revolt took place in 121 H. during the reign of the Caliph Hisham b. 'Abd al-Malik. For all his tight control of the purse-strings, there was peace in Hisham's dominions, the people were happy and no illicit revenues found their way into the public exchequer. There was, therefore, no reason for Abu Hanifah to be

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hostile to the Caliph. Zaid b. 'Ali revolted because he believed that as a Saiyid he had a special claim to the caliphal throne. The story of Abu Hanifah's participation in his revolt seems to have had its origin in a misunderstanding arising out of his close relations with the *Ahl-i-Bait.* His family had a special devotion for the *Ahl-i-Bait.* He himself sat at the feet of Imam Baqir for a long time. Again, the atmosphere of Kufah was for a period surcharged with Shi'ism. These facts combined to create the legend of Abu Hanifah's joining Zaid b. 'Ali's revolt, which is clearly contradicted by all the historical evidence.

Hisham died in 125 H. He was succeeded by Walid b. Yazid, Yazid al-Naqis, Ibrahim b. al-Walid and Marwan al-Himar one after another. The conspiracy to instal the Abbasids on the caliphal throne, which had been going on for a long time, gathered strength during Marwan's reign. Abu Muslim of Khurasan spread a network of intrigue over the whole country, which sapped the foundations of Marwan's rule. As Iraq and in particular the city of Kufah were the main centres of the disturbances, Marwan appointed Yazid b. 'Umar Hubairah as the governor of Iraq. Yazid was sagacious, courageous, generous, well-born and influential. He had carefully studied the structure of Marwan's administrative machinery and had come to the conclusion that what was lacking in it was religious paraphernalia. He, therefore, decided to erect the edifice of his government on the pillars of religion and appointed outstanding authorities on *Fiqh,* such as Ibn Abi Laila bin Shubramah, and Dawud b. Hind, to important political posts. To Abu Hanifah he offered the post of *Mir Munshi* and Chief Treasurer, but Abu Hanifah declined it. Yazid declared on oath that he would compel him to accept the post, and Abu Hanifah's friends tried their best to persuade him to accept it. But Abu Hanifah stuck to his guns. "If Yazid were to ask me," he declared, "to count the doors of the mosques, I would not agree to do it for him, not to speak of my sealing the death-warrant of a Muslim signed by him."[2] Yazid was so enraged that he sent Abu Hanifah to prison and ordered a hundred stripes to be administered to him daily; and this monstrous

2. Ibid., Chapter 21.

order was actually carried out. Abu Hanifah, however, did not relent. It was Yazid who had to relent and stop the punishment. On one account Abu Hanifah proceeded to Mecca as soon as he was released and stayed there till the end of 136 H. Ibn Qutaibah and some others say that this quarrel took place over the post of Qadi. It is possible that that post was also offered to Abu Hanifah and refused by him.

In 132 H. events took a new turn : the Umayyads were overthrown by the Abbasids. The first caliph of the latter dynasty was Abu'l-'Abbas Saffah, who died in 136 H. after ruling for four years, being succeeded by his brother, Mansur. The Abbasids exterminated the Umayyad dynasty, even digging up the graves of the Umayyad Caliphs; but they had not yet established themselves and made their rule effective, so that there were rebellions afoot everywhere. In quelling these Saffah and Mansur committed excesses which revived memories of Marwan's reign. The people had been looking up to the new rulers with hope, but were disappointed by their atrocities. One day, it is reported, Mansur asked 'Abd al-Rahman, who was a childhood friend of his, how in his opinion his rule compared with that of Marwan. 'Abd al-Rahman replied that he saw no difference between the two. "What can I do?" said Mansur. "I can't get good people to fill government positions." "Increased demand increases the supply of a commodity," retorted 'Abd al-Rahman.

To cap his barbarities, Mansur started exterminating the Saiyids. True the Saiyids had for long been plotting to seize the caliphal throne, to which from one point of view they had a right. However, no plot of theirs had been unearthed until Saffah's death. Therefore it was on mere suspicion that Mansur started destroying them. The more prominent among them were special targets of his cruelties. Muhammad b. Ibrahim, popularly known as *Dibaj* (cloth of gold) because of his matchless good looks, was by his orders interred alive in a wall which was erected round him. Mansur's cruelties form a long tale which needs a strong heart to tell. At last in 145 H. one of the persecuted Saiyids, Muhammad Nafs Dhakiyyah, took up arms at Medina with a handful of followers.

Nafs Dhakiyyah was a courageous man well versed in the art of war, but luck was against him and he died fighting bravely in Ramadan of 145 H. After his death his brother Ibrahim assumed the leadership of the uprising and came into the battlefield with such a strong force that Mansur was frightened out of his wits. It is said that he did not change his clothes for two months on end and would sit with his pillow in nis hand, repeating the words, "I don't know whether this pillow belongs to me or to Ibrahim." He did not even exchange a word with two slave-girls newly added to his harem. On being questioned about this, he replied, "These things are for times of leisure. What I am worried about at the moment is whether in a short while Ibrahim's head will be lying before me or mine before him."

Ibrahim, besides being a brave fighter, was a great scholar and highly respected religious leader. His claim to the caliphal throne received much public support, particularly at Kufah, where about a hundred thousand men came forward to fight for him. Most religious leaders, especially scholars and jurists, pledged their loyalty to him. Abu Hanifah had been watching the excesses of the Abbasids from the very outset. As early as during the reign of Saffah he had reached the conclusion that these people were not fit to be caliphs. Ibrahim b. Maimun, a man of great piety and scholarsip, who was a friend of Abu Hanifah's, used often to ask him whether it was right for religious leaders to keep quiet while such monstrous things were being done. The Imam used to reply, "Inculcating what has been enjoined is undoubtedly a duty, but you must have the wherewithal for that." Ibrahim b. Maimun, however, could not control his religious ardour for long and, going to Abu Muslim Khurasani, who was the evil genius behind all the inquities that were going on, spoke to him frankly and fearlessly about them. Either to punish him for his audacity or from fear of his examle being followed, Abu Muslim had him put to death. Abu Hanifah wept bitterly on hearing of his friend's sad end.[3] All this happened in 131 H. When in 145 H. Ibrahim raised the caliphal standard, Abu Hanifah supported him along with other religious

3. *Al-Jawahar al-Mudiyyah*, note on Ibrahim b. Maimun.

leaders. He wanted even to join the fighting, but was prevented from doing so by some difficulties, which fact he always regretted.

The following occurs in a letter written by Abu Hanifah to Ibrahim, which has been quoted in the *Namah-i-Danishwaran:* "I am sending you four thousand dirhams, which is all I possess at the moment. If I did not have articles belonging to people lying in trust with me, I would certainly have come to meet you. When you are victorious over your enemies, treat them in the same way as your ancestor ('Ali) treated the people of Siffin. The wounded and truants should all be put to death. Do not follow what your father thought fit to do at the Battle of Jamal, since the enemy is in great strength." The *Namah-i-Danishwaran* says about this letter that it has been quoted in many reliable books, but does not name even one of those books. I, therefore, do not regard it as authentic.

Irrespective of whether the letter just mentioned was authentic or not, there is no doubt that Abu Hanifah openly supported Ibrahim and gave him every kind of help, short of taking part in the fighting. Ibrahim overreached himself, was defeated and died fighting bravely at Basrah.

Having successfully completed the campaign against Ibrahim, Mansur dealt with Ibrahim's supporters, among whom was Abu Hanifah. Mansur's capital at the time was Hashimiyyah, a few miles from Kufah. Since the Kufans did not acknowledge the right of anybody but a Saiyid to the caliph's throne, he decided to shift his capital farther away from Kufah and selected Baghdad as the new capital. Immediately after his arrival at Baghdad in 146 H. he issued a command to Abu Hanifah to present himself at the capital at once. The Imam had left Mecca after the fall of the Umayyads and was then living at Kufah. Mansur had made up his mind to have him put to death, but had to find some excuse for doing so. When Abu Hanifah appeared at the caliphal court, the chamberlain, Rabi', introduced him in the following words: "This man is the greatest living *'alim.*" In reply to a question by Mansur, Abu Hanifah gave the names of his teachers, whose line went back to a number of great Companions. Mansur thereupon offered him the post of *qadi*

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Abu Hanifah declined the post pointblank, saying that he was not fit for it. Enraged, Mansur shouted, "You are a liar." "If I am a liar," retorted the Imam, "then my statement that I am unfit for the post of *qadi* is true, because a liar cannot be appointed a *qadi*." This logical counterthrust had behind it a genuine conviction that he would be unable to bear the responsibilities of a *qadi's* office. He advanced very valid reasons for this conviction. For one thing, he was not settled in his mind. For another, he was not of Arab origin, which would make it intolerable for Arabs that he should sit in judgment on them. Again, he would be required to be obsequious to the courtiers, which he would find it impossible to do. Mansur accepted none of these reasons and declared on oath that he would make Abu Hanifah accept the post. The Imam replied by similarly declaring on oath that he would never accept it. All the courtiers were thunderstruck at the Imam's boldness and fearlessness. Rabi' said angrily, "Abu Hanifah, you dare to oppose the Khalifah's vow with a vow of your own." "Yes, I do," replied the Imam, "because it is easier for the Commander of the Faithful than it is for me to atone for the sin of swearing."

Another version of the event is, however, given by Khatib. According to that version, the Imam, when pressed very hard by Mansur, went and took his seat on the judicial bench. The very first case that came up before him was a suit for the repayment of a loan. The plaintiff had no witnesses, and the defendant totally denied the claim. In accordance with the prescribed procedure, the Imam asked the defendant if he was ready to declare on oath that he owed nothing to the plaintiff. The defendant expressed his readiness to do so. But hardly had he uttered the words "By God" when the Imam, seriously perturbed, asked him to stop and, producing the money out of his own pocket, gave it to the plaintiff, saying, "Here is your loan. Take it. Why do you want to make a Muslim swear?" Thereafter he got up and going to Mansur's court told him that he would not be able to carry on with the work. Mansur immediately ordered his imprisonment, which ended only with his (Abu Hanifah's) death. Mansur, however, used to send for him occasionally and hold religious debates with him.

Chapter IV

Death

Despite sending Abu Hanifah to prison (in 146 H.), Mansur had no peace of mind in regard to him. Because of its being the capital, Baghdad had become a great seat of learning, to which seekers after knowledge focked from all Islamic countries, and Abu Hanifah, whose fame had spread far and wide, was its most prominent figure. His imprisonment, far from reducing his influence and popularity, enhanced them a great deal, especially with the scholarly community, which had an importance all its own in Baghdad. Mansur had to bow before these facts and refrain from doing anything overt which might show disrespect towards Abu Hanifah. He, therefore, permitted Abu Hanifah to carry on with his teaching in prison, and it was there that Muhammad b. al-Hasan, one of the stalwarts of Hanafi *Fiqh,* received his education from its originator. As Abu Hanifah constituted no less a danger to the Abbasid government in prison than he had done outside, Mansur decided to do away with him and had him poisoned. When Abu Hanifah felt the effects of the poison, he bent down in prayer and died (Rajab 150) in that posture.

News of his death spread like wildfire in the city and brought the citizens in their thousands to the prison. The city *qadi,* Hasan b. 'Ammarah, bathed the body and, while doing so, kept repeating: " By God, you were the greatest *faqih* and the most pious man of our time. You had all the qualities of greatness in you. You were, indeed, so great that nobody after you may hope to reach your level." By the time the bathing was finished so many people had assembled that the first funeral prayer was performed attended by fifty thousand persons. But people still kept coming. So the prayer had to be performed six times over and it was not till sunset that the burial took place.

The Imam, while dying, had expressed the wish to be buried in the graveyard at Khaizran, because the ground of that graveyard

Chapter V

Children

Details of the Imam's children are not known, but what is certain is that he was survived only by a son named Hammad, who was a great scholar and of whose early education the Imam had taken great care. When the boy completed his *al-Hamd*, the Imam gave his tutor a reward of five hundred dirhams and when the boy grew up the Imam himself taught him. Hammad was a worthy son of his father, not only in learning, but also in unworldliness and piety. The Imam had left in his house many articles belonging to different people who had deposited them with him as a trustee. Hammad took them to the city *qadi* and requested him to return them on his father's behalf to their owners. The *qadi* advised him to let them remain in his custody for some time more, as he thought that they were quite safe with him. Hammad, however, left the articles with the *qadi* and retired to some unknown place, making his appearance again only after the articles had been deposited with somebody else. He took service with nobody and did not have any connections even with the caliphal court. He died in Dhi-Qa'dah 176, survived by four sons, 'Umar, Isma'il Abu Hayyan and 'Uthman.

Isma'il attained to much fame as a scholar and was appointed a *qadi* by Mamun al-Rashid, the duties of which post he discharged with such conscientiousness and fairness that when he left Basrah he was seen off by a big crowd, which prayed for him.[1]

The Imam's spiritual progeny is today spread over the whole Islamic world and numbers not less than sixty or seventy million. It includes some actual descendants of his, who are to be found in different countries. In India itself there are a number of families that trace their ancestry to him and which have kept alive from generation to generation the tradition of scholarship inherited from him.

1. Ibn Khallikan, *Wafayat al-A'yan*, note on Hammad.

Chapter VI

Character and Habits

The writers of the *tadhkirahs* (biographical memoirs) in which Imam Abu Hanifah figures have allowed their admiration for him to make them portray his character and personal habits with so much palpable exaggeration that after reading their accounts one finds it hard to visualise what he was really like. Here are few of the incredible things they mention: For forty years he said his morning prayers with the *wudu* (ritual ablution) he had performed for his *'isha* prayer (the night prayer). For thirty years on end he fasted from day to day. He completed seven thousand readings of the Qur'an at the place where he died. There having been found in the canal at Kufah a piece of meat about which it could not be ascertained whether or not it was part of a lawfully slaughtered animal, he abstained from eating fish for a long time for fear that the fish, which are longlived, may have eaten of that piece of meat. For a similar reason he gave up eating goat's meat. His personal expenditure was equivalent to ten annas a month only. There are many other fantastic stories of the same kind current about him. The surprising thing is that our historians regard impossible things of this kind as real evidence of the Imam's spiritual attainments, although these have not been historically established and, in any case, are no proof of spiritual or moral excellence.

I must admit that the facts I have accepted about Imam's personality and way of life are also derived from these very biographical memoirs; but then every incident or fact mentioned in a book has to be considered on its own merits. In regard to ordinary incidents the ordinary kind of evidence is sufficient; but so far as extraordinary things of the kind that I am speaking of are concerned, they need some authority absolutely beyond doubt; in fact, they need to conform to something more than the conditions to be fulfilled by a *hadith* before it can be accepted as *sahih* (authentic), *marfu'* (connected with a saying or an act of the Prophet) and *muttasil* (uninterruptedly continuous)—and must also stand

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examination in accordance with the principles of scrutiny *(dirayat)*. When one thinks of the Imam's sagacity and keen intellect, of which we have first-hand proof, one cannot believe his doing things which even a rabid anchorite would not do.

An accurate, though sketchy, portrait of the Imam's personality is to be found in the description that Qadi Abu Yusuf gave of him to Harun al-Rashid at the latter's request. "As far as I know," said the Qadi, "Abu Hanifah was extremely pious, avoided forbidden things, remained silent and absorbed in his thoughts most of the time, and answered a question only if he knew the answer. He was very generous and self-respecting, never asked a favour of anybody, shunned the company of the worldly-minded and held worldly power and position in contempt. He avoided slander and only talked well of people. He was a man of profound learning and as generous with his knowledge as with his money." On hearing this account, Harun al-Rashid observed, "You have described a great and good man." To superficial observers the qualities described by Qadi Abu Yusuf may not appear to be of much significance, but connoisseurs of the spiritual character know that, easy as this way of life may look, it is very difficult to follow and as praiseworthy as it is difficult.

Along with beauty of character God had endowed the Imam with good looks. He had a medium height, handsome features and a well-proportioned figure. His way of speaking was pleasing and his voice loud and clear. When he spoke on a problem he did so with such eloquence and clarity that, no matter how complicated it was, it became simplified.

He was a man of good taste and liked to dress well. Sometimes he even put on ermine *jubbahs*. Abu Muti' Balkhi, one of his pupils, mentions that on one occasion he found him dressed in a shirt and mantle which could not have cost less than four hundred dirhams. One day he borrowed the mantle of Nasr b. Muhammad, who called on him when he was getting ready to go out. On coming back, he complained that he had felt ashamed of the mantle,

because it was dirty. Nasr had bought it for five dinars and was proud of it. He was, therefore, surprised at the Imam's complaint, but he understood the reason for it when, a few days later, he found the Imam wearing a mantle which could not have cost less than thirty dinars.

The Caliph Mansur had invented a special straw cap covered with black cloth for his courtiers to wear. The cap was so very tall that it provoked the poet Abu Dalamah into saying humorously: "We were expecting some enhancement from the Caliph. So he has enhanced the length of caps."

Although the Imam kept away from the Caliph's court as much as he could, yet he did not mind occasionally wearing the new courtiers' cap. In fact, it raised eyebrows in learned circles that he sometimes had seven or eight of the caps in his wardrobe, although for the *beau monde* this was nothing to marvel at.

In some other matters too the Imam's style of living was quite different from that of the common run of *'ulama'*. Most of the contemporary *'ulama'* were stipendiaries of the Caliph or of rich courtiers, and did not consider this as a thing to be apologetic about. Somebody having taunted Qadi Ibn 'Abd al-Barr with being a stipendiary of wealthy people, he replied by citing the example of a number of Companions, *Tabi'in* and *Tab' Tabi'in* who had lived on the generosity of the rich. However, I do not consider this, as perhaps some modern-minded people do, to be tantamount to idleness or parasitism. Teaching was not yet a salaried profession. The *'ulama'* used to teach honorarily either at their own homes or in mosques—a system which has not yet been surpassed in extensiveness and usefulness. What these honorary teachers received from their rich patrons by way of regular stipends or occasional gifts could well be regarded as a salary. All the same, it cannot be denied that it was this practice which in course of time grew into the system of professional and hereditary religious preceptors (*pirs*), parasites living by exploiting people's credulity, which has rendered a large part of the Muslim population idle.

There is no doubt that Abu Hanifah was strongly opposed to the practice, and he was right in the light of its subsequent development. One great advantage that accrued to him from his being attached to nobody was that he could express his true opinions without fear or favour. However independent-minded and frank a man may be, he cannot help being influenced by those from whom he accepts favours. Abu Hanifah never accepted a favour from anybody throughout his life, and so he retained his independence. He sometimes used to mention this fact too.

Ibn Hubairah, governor of Kufah and a man of renown, once said to Abu Hanifah, "I would consider it a favour if you could come and see me occasionally." "What is the point in my visiting you?" replied the Imam. "If you treated me kindly, I might fall into your trap. If, on the other hand, you received me rudely, I would consider it a disgrace. I do not need anything from your treasury, and whatever I have nobody can snatch away from me." A similar conversation is said to have taken place between him and 'Isa b. Musa.

A dispute having arisen between the Caliph Mansur and his wife Harrah over an accusation made by the latter that the former was not a just ruler, Abe Hanifah was called in to arbitrate between them. The queen sat behind a veil in order to hear the Imam's verdict with her own ears. Mansar began by asking how many wives a Muslim was permitted to have at a time according to the *Shari'ah*. The Imam replied, "Four." "Do you hear?" shouted Mansur to the queen. "Yes, I've heared it," replied the queen. At that point the Imam addressed himself to the Caliph and added: "But this permission is for a man who is capable of doing justice. No other man can have more than one wife. God Himself says: 'If you doubt your ability to do justice (between your wives), have only one wife.' " Mansur remained silent. A little while after the Imam returned home, a servant came to him with a gift of fifty thousand dinars. "The queen," he said, "sends you her respectful salutations and says that she is grateful to you for your truthful verdict." The Imam returned the money with a message for the

queen that he had expressed the opinion he had expressed not in the expectation of a reward but because it was his duty as an arbitrator to express it.

The Imam's business was on a large scale. He traded in goods worth millions, had his agents in a number of cities and had dealings with many big merchants. With such a vast establishment under him he personally took care to see that no illicitly gained money came into his coffers, even though this subjected him to occasional losses. Once he sent some lengths of silk to Hafs b. 'Abd al-Rahman for sale with instruction to point out to prospective customers certain defects in some of the lengths. Hafs forgot the instruction and sold off the defective lengths without telling the customers anything about their defects. When the Imam learned of this, he was very sorry and gave away in charity the entire price of the lengths, which amounted to thirty thousand dirhams.

One day a woman came to him with a length of silk which she wanted him to sell for her and quoted a hundred rupees for it. On the Imam expressing surprise at that figure, she raised it to two hundred rupees. But the Imam told her that it was worth not less than five hundred rupees. "Are you making fun of me?" said the woman. The Imam took out five hundred rupees, gave them to her and kept the cloth. This kind of scrupulous honesty, far from harming his business, made it flourish.

His object in carrying on business and making money was to be able to help others. He had fixed stipends for all his needy friends and acquaintances and had reserved a part of his profits for distribution among scholars and *muhaddithin* annually.[1] Whenever he bought anything for his family, he would buy the same thing for the scholars and *muhaddithin* of his acquaintance. If anybody came to call on him, he would tactfully find out about his economic condition and, if he was in want, help him. He used to provide those of his pupils who were poor with money for their household expenses, so that they could attend to their studies

1. Nawawi relates these facts in the *Tahdhib al-Asma'*.

undistracted by domestic worries. Many people who were too poor to meet the expenses of their education were educated with his help and attained to high positions. One of these was Qadi Abu Yusuf, of whom more later.

One day a man who looked poor came to see Abu Hanifah. When his visitors were taking leave of him, the Imam asked the man to stay on. After the others had gone, he pointed to his prayer mat and asked the man to lift it. On doing so the man found a purse containing a thousand dirhams under the mat. Understanding that the Imam was offering the money to him, the man explained that he was well-to-do and did not need it. "Then you should not dress in such a way," said the Imam, "that people mistake you for a poor man."

On one occasion while on his way to see a sick acquaintance, the Imam saw at a distance a man who owed him ten thousand dirhams. The man tried to avoid him, but he accosted the man and, stopping him, asked why he had tried to avoid him. The man replied that he was ashamed to face him because he had not been able to repay his loan. Impressed with the man's confession of shame, the Imam said, "Well, if you are unable to repay the loan, you need not do so."

On one of his pilgrimages he was accompanied part of the way by 'Abd-Allah Sahmi. At one of the halting stations a bedouin caught hold of 'Abd-Allah and, bringing him to the Imam, complained that 'Abd-Allah was not repaying a loan he had given him. 'Abd-Allah denied the claim. So the Imam asked the bedouin the amount of loan involved. The bedouin informed him that it was forty dirhams. "Things have come to such a pass," exclaimed the Imam, "that people fight over a paltry sum like forty dirhams." Saying this, he paid forty dirhams to the bedouin out of his own pocket.

Ibrahim b. 'Utbah owed somebody four thousand dirhams and, being unable to repay the money, stopped meeting people out of shame. A friend of his started collecting subscriptions to

help him discharge the loan and approached the Imam also. The Imam asked the amount of the loan. When he was told that it was four thousand dirhams, he said, "Why bother so many people for such a small amount?" Saying this, he gave Ibrahim's friend the entire money.

There are many other stories in the history books about the Imam's generosity, which for want of space I refrain from relating.

Despite his wealth and high position in society, the Imam was extremely gentle and polite. One day, while he was sitting in the Hanif mosque, surrounded by his pupils and admirers, a stranger posed a question, which he answered. The man remarked that Hasan Basri had given a ruling contrary to his. 'Then Hasan Basri made a mistake," replied the Imam. One of those present, who was a disciple of Hasan Basri, was so enraged at this remark that he shouted, "You son of a whore, you dare to say that Hasan Basri can be wrong?" This caused an uproar in the assembly, and some people wanted to catch hold of the man and punish him. The Imam, however, intervened and prevented them from doing so. This struck the whole assembly dumb. However, when order had been restored, the Imam turned to the man who had abused him and very calmly said, "Yes, Hasan did make a mistake. The correct Tradition on the subject is the one narrated by 'Abd-Allah b. Mas'ud."

Yazid b. Kumait relates that one day, when he was present, a man began to speak rudely to the Imam. The Imam went on answering his questions gently and calmly; but the man became more and more impolite, so much so that he called the Imam a *Zindiq*. On hearing that word, the Imam said, "May God forgive you! He knows that you have used a wrong word about me." The Imam often used to say that he had never cursed anybody, never taken revenge from anybody, never done harm to a Muslim or a *dhimmi*, never deceived anybody and never broken a promise.

For some time relations were strained between Abu Hanifah and Sufyan Thauri . One day a man reported to Abu Hanifah that

Sufyan was speaking ill of him. "May God forgive both of us," said the Imam; "Sufyan is so great a scholar that if he had died even when Ibrahim Nakha'i was alive, the Muslims would have mourned him."

One day, while he was taking a class, a man who bore him some grudge started saying improper things about him. He paid no attention to the man and carried on with his teaching. He even told his pupils to pay no heed to him. When, after the class was over, he went out, the man followed him and continued abusing him. When both of them reached the Imam's house, the latter stopped and, turning to the man, said: "Brother, we are now at the doorstep of my house. If you have anything more to say, say it, because I shall presently go in and you may not get another opportunity."

One another occasion, while the Imam was lecturing, a young man, who was not a regular pupil of his, put a question to him, and on hearing the answer said, 'Abu Hanifah, your answer is wrong. " One of the Imam's pupils, Abu'l-Khattab Jurjani, angered by this, shouted to the audience: "All of you are shameless people. Here is a mere youngster speaking rudely to the Imam, and nobody seems to be bothered." The Imam, turning to Abu'l-Khattab, said, "I am here to give people an opportunity of pointing out my mistakes freely, and I must listen to them patiently."

There was a merry cobbler living in the Imam's neighbourhood. After his day's work he used to come home with meat and wine and entertain his friends at night. They would all eat *kababs,* which he himself roasted, and drink his wine with him. Happily drunk, he would now and again sing a couplet which said: "People have let me go to waste me, who would have been useful to them in battle and siege." The Imam, who used to spend the greater part of the night in prayer, would hear his singing, but never objected to it out of neighbourly consideration and his habitual kindness. One night the prefect of police, who happened to pass that way, arrested the cobbler and locked him up. On the following morning

the Imam mentioned to his friends that he had not heard his neighbour's singing during the previous night. They informed him of what had happened. The Imam at once ordered his mount, put on his *darbar* dress and proceeded to the governor's house. The governor then was 'Isa b. Musa, a cousin of the Caliph Mansur and distinguished among the Abbasids for sagacity and bravery. On being informed that Imam Abu Hanifah was coming to see him, he sent a number of his courtiers to receive him, with orders that he should be escorted on horseback right up to the courtyard of the governor's house. As soon as the Imam's horse approached, he stood up and, after the Imam had dismounted, took him to a seat with all respect. Then he said, "Why have you taken the trouble of coming here? You could have sent for me." The Imam said, "What brings me here is that a cobbler who is my neighbour has been arrested by the prefect of police and I want him released." 'Isa immediately sent orders for the cobbler's release. The cobbler was brought to the governor's house and set free, and he accompanied the Imam on his way home. "Well, my friend," said the Imam to him, "have I allowed you to go to waste?" This was with reference to the couplet the cobbler used to sing. The cobbler replied, "No, sir, you have proved a good neighbour."[2] From that day he changed his way of life. Giving up his drunken merry-making, he joined the Imam's classes and in due course attained to such scholarship that he came to be known as a *faqih.*

The Imam lost his father before he had come of age, but his mother lived for a long time, and the Imam looked after her with great affection and regard. She was of a superstitious nature and, like most women, had much faith in religious preachers and story-tellers, especially in 'Amr b. Dharr, a well-known preacher of Kufah. Whenever she had a religious question to be answered, she would tell the Imam to go to 'Amr and get the answer from him. The Imam would faithfully carry out her behest, much to the embarrassment of 'Amr, who would exclaim, " How dare I open my mouth before you?" The Imam would reply, "Such is my

2. There are different versions of this stroy in different books, I have adopted the version of the *Kitab al-Aghani,* Ibn Khallikan, *Wafayat al-A'yan,* and *'Uqud al-Juman.*

mother's command." It sometimes happened that 'Amr did not know the answer to a question. He would then request the Imam to tell him the answer so that he could repeat it in front of him–in which case, it would become his answer. Now and again the old lady would insist on questioning 'Amr personally and would go to him mounted on a mule, with Abu Hanifah walking by her side. On arriving at 'Amr's house she would put her question to him personally and hear the answer with her own ears; only then would she be satisfied. Once she posed a problem to the Imam and asked him for the answer, but when he gave it, she turned it down, saying, "No, you are no authority. I shall accept your answer only if Zurqah confirms it." (Zurqah was a preacher.) The Imam took her to Zurqah and explained the problem to him. "Why don't you answer it yourself?" said Zurqah. "You know far more than I do." The Imam then told him what answer he had given. Zurqah said that the answer was correct. That satisfied the old lady and she returned home. When Ibn Hubairah having sent for Imam Abu Hanifah, asked him to accept the post of *Mir Munshi* and on the latter's refusal ordered him to be whipped daily until he relented, the Imam's mother was still living. Hearing of what was happening, she was greatly grieved. Whenever the Imam recalled this episode in later life, he would say: "It was not so my pain as the thought of the grief it was causing my mother that I found hard to bear."

The Imam was very tender-hearted and was greatly disturbed by other people's pain and sorrow. One day, while he was teaching in a mosque, somebody came with the news that a certain man had fallen from the roof of his house. He cried out aloud, left the class, ran barefoot to the man's house and attended to him. Until the man had fully recovered, the Imam visited him every morning. But, distressed as he was by other people's sufferings, he bore his own with an equanimity which astonished people. Through all the persecution to which he was subjected by the Caliph and his officers he never wavered for a moment. Patience and steadfastness were inborn in him.

One day, while he was lecturing in the *Jami'* mosque,

surrounded by students and devotees, a snake fell into his lap from the ceiling. Everybody except him ran out of the mocque. As for him, he kept sitting calmly as if nothing had happened. A similar story is told of Imam Malik and forms one of the famous incidents of his life.

Abu Hanifah was a man of few words and never took part in idle talk. In his classroom he would sit quietly, letting his pupils freely debate among themselves, and would speak only when the discussion had become long-drawn-out without any conclusion being reached. He would then give his decision, which would satisfy all present.

He always avoided speaking ill of people behind their backs and would often thank God for saving his tongue from being contaminated with this evil. One day a man said to him: "Sir, people go about saying so many bad things about you, but one has never heard an ill word from your lips." The Imam observed: "This is God's grace. He grants it to whomever He likes." On somebody telling Sufyan Thauri that he had never heard Abu Hanifah slander anybody, Sufyan said: "Abu Hanifah is not such a fool as to ruin all his good deeds."

He thought it wrong to swear and always abstained from it. In order to enforce this upon himself he had taken a vow that every time he committed the error he would pay a voluntary penalty of one dirham. Once he did commit it inadvertently. Thereupon he raised the penalty to one dinar.

His piety and devotion knew no bounds. Praying was a delight to him and he used to engage in it with great gusto and sincerity, and he was famous for this. Dhahabi writes: "Accounts of his piety and devotion have reached a degree of *tawatur* (i.e. an unbroken chain of uncontradicted narrations)." While saying his prayers or reading the Qur'an, he would be so overcome with feeling that he would start weeping and go on doing so for hours. Ibrahim Basri relates that one morning while he was saying his prayers together with the Imam, the latter recited the *ayat*: "Do not think that God

is forgetful of the conduct of the iniquitous" and in reciting it wept so much that his whole body shook with sobs. Za'idah relates that, having an important question to consult the Imam about, he joined the *'isha'* prayers with him and waited for him to finish his *nafls*. But the Imam, when in reciting from the Qur'an he reached the *ayat*: "Waqana 'adhab al-samum" (Save us from the torture of Hell's hot wind), went on repeating it until the morning. On another occasion he spent the whole night repeating the *ayat:* "Judgment Day is the sinners' promised hour and it is a difficult and unpleasant hour," and weeping while he repeated it.

Yazid b. Kumait, a contemporary of the Imam and famous for his piety, relates that he joined the Imam in an *'isha'* prayer, during which the Imam leading the prayers recited the ayat *"Idha zulzilat"*. After the other people had departed, he found the Imam still sitting and heaving deep sighs. Yazid did not want to disturb the Imam. So he also went away, leaving the Imam sitting. When he went to the mosque on the following morning, he found the Imam sitting, looking very sad, holding his beard in his hands and saying tearfully, "O Thou Who wilt reward even the smallest virtue and punish even the smallest sin, save Thy slave Nu'man from Hell-fire."

One day while walking in the street the Imam inadvertently stepped on a small boy's foot. The boy cried, "You don't seem to fear God." On hearing these words the Imam fainted. Mus'ir b. Kudam, who was with him, stopped him from falling and attended to him. As soon as he came to, Mus'ir said, Why were you so perturbed by a small boy's casual remark?" The Imam replied: "Who knows this was not an admonition from the Unknown!"

One day when the Imam arrived at his shop, his servant put out some lengths of cloth and by way of a good augury said, "May God grant us Paradise!" The Imam started weeping and wept so much that his whole mantle became wet. Then he told the servant to shut shop and went out, covering his face with his handkerchief. When he came to the shop on the following day, he said to the servant, "Who are we to wish for Paradise? It will be enough if God spares us His wrath." 'Umar Faruq used to say similarly, "If

on Judgment Day I am neither punished nor rewarded, shall be quite happy."

One day, when he was explaining a point, one of the men present said, "You should always have the fear of God in your heart when you give a *fatwa*." The Imam was so deeply affected by this remark that he went pale. Turning to the man, he said, "May God reward you for your good deeds, brother! If I were not sure that God will punish me for deliberately withholding the benefit of my knowledge from others, I would never give a *fatwa*." Faced with a question to which he did not know the answer, he used to get disturbed and ask himself whether he had committed some sin, of which this was the punishment. He would then perform his ablution, say his prayers and beg God's forgiveness. Somebody having reported this to Fudail b. 'Iyad, a famous *sufi*, he wept and said "Abu Hanifah did not have many sins to repent for. That was why he thought thus. But those who are drowned in sin have innumerable calamities sent down upon them and yet do not realise that these are warnings from God."

The Imam's daily routine was as follows. After the morning prayer he would take his class in the mosque and then reply to references for *fatwas,* which came from far and near. That was followed by a session for *Fiqh* compilation, in which his leading disciples took part. Decisions reached unanimously were recorded. After saying his *zuhr* prayer, the Imam would go home and, if it was summer, have a siesta. The *'asr* prayer was followed by another session of teaching, after which the Imam would go round the city, meeting friends, visiting the sick, condoling the bereaved and helping the poor. After the *maghrib* prayer there was a third teaching session, which continued till the *'isha'* prayer. Having said his *'isha'* prayer, the Imam would start his private devotions, often continuing them throughout the night. During winter, he often slept in the mosque until the *'isha'* prayer, after which he would spend the whole night in performing the *tahajjud* prayer, reciting chosen passages from the Qur'an and repeating devotional formulas. Sometimes he performed these in his shop.

is forgetful of the conduct of the iniquitous" and in reciting it wept so much that his whole body shook with sobs. Za'idah relates that, having an important question to consult the Imam about, he joined the *'isha'* prayers with him and waited for him to finish his *nafls*. But the Imam, when in reciting from the Qur'an he reached the *ayat*: "Waqana 'adhab al-samum" (Save us from the torture of Hell's hot wind), went on repeating it until the morning. On another occasion he spent the whole night repeating the *ayat:* "Judgment Day is the sinners' promised hour and it is a difficult and unpleasant hour," and weeping while he repeated it.

Yazid b. Kumait, a contemporary of the Imam and famous for his piety, relates that he joined the Imam in an *'isha'* prayer, during which the Imam leading the prayers recited the ayat *"Idha zulzilat"*. After the other people had departed, he found the Imam still sitting and heaving deep sighs. Yazid did not want to disturb the Imam. So he also went away, leaving the Imam sitting. When he went to the mosque on the following morning, he found the Imam sitting, looking very sad, holding his beard in his hands and saying tearfully, "O Thou Who wilt reward even the smallest virtue and punish even the smallest sin, save Thy slave Nu'man from Hell-fire."

One day while walking in the street the Imam inadvertently stepped on a small boy's foot. The boy cried, "You don't seem to fear God." On hearing these words the Imam fainted. Mus'ir b. Kudam, who was with him, stopped him from falling and attended to him. As soon as he came to, Mus'ir said, Why were you so perturbed by a small boy's casual remark?" The Imam replied: "Who knows this was not an admonition from the Unknown!"

One day when the Imam arrived at his shop, his servant put out some lengths of cloth and by way of a good augury said, "May God grant us Paradise!" The Imam started weeping and wept so much that his whole mantle became wet. Then he told the servant to shut shop and went out, covering his face with his handkerchief. When he came to the shop on the following day, he said to the servant, "Who are we to wish for Paradise? It will be enough if God spares us His wrath." 'Umar Faruq used to say similarly, "If

on Judgment Day I am neither punished nor rewarded, shall be quite happy."

One day, when he was explaining a point, one of the men present said, "You should always have the fear of God in your heart when you give a *fatwa*." The Imam was so deeply affected by this remark that he went pale. Turning to the man, he said, "May God reward you for your good deeds, brother! If I were not sure that God will punish me for deliberately withholding the benefit of my knowledge from others, I would never give a *fatwa*." Faced with a question to which he did not know the answer, he used to get disturbed and ask himself whether he had committed some sin, of which this was the punishment. He would then perform his ablution, say his prayers and beg God's forgiveness. Somebody having reported this to Fudail b. 'Iyad, a famous *sufi,* he wept and said "Abu Hanifah did not have many sins to repent for. That was why he thought thus. But those who are drowned in sin have innumerable calamities sent down upon them and yet do not realise that these are warnings from God."

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Chapter VII

Anecdotes about Abu Hanifah's Wit and Wisdom

It is in his writings and pronouncements on *Fiqh* that Abu Hanifah's inventiveness, originality, penetration and breadth of learning show at their best. In the compilation and codification of *Fiqh* he occupies the same position as Aristotle does in logic and Euclid in geometry. But as this subject needs full treatment by itself, I have reserved the second part of the present work for it. In this chapter I content myself with relating certain facts and events which are incidental to a historical study of his work. These, I may however mention, by themselves furnish us with principles on which hundreds of points of law rest.

It is necessary at the outset to make it clear that many fictitious stories are current about the Imam's debates and utterances. What is surprising is that some eminent writers have included them in their books without properly investigating them, thus providing documentary corroboration of them. It is quite a common thing for all sorts of good and bad stories to come into existence about people who have attained eminence in the sciences and arts and to become so widely accepted as to appear authentic. The irony of it all is that admirers in their enthusiasm sometimes make claims which they think to be complimentary but which are, in fact, derogatory, while detractors sometimes make allegations intended as disparagements but in effect constituting praise. Abu Hanifah did not escape this common fate of famous men. Some authors have narrated incidents intended to demonstrate his great intelligence and intellectual reach, but which, if believed, would rather go to show that he was merely crafty, prevaricative, good at repartee and glib-tongued. These incidents, however, are not historically established and, apparently for that reason, careful scholars and especially traditionists have refrained from mentioning them. I propose to do the same and to confine myself to facts and

incidents with a high degree of probability of being true.

There is no doubt that Abu Hanifah took part in more polemic encounters and debating duels than any of the other *imams* of *Fiqh*. His refinement of the legal sciences, which was beyond the comprehension of common minds, had brought into existence a group of people hostile to him, which included a number of pious simpletons. These people were always seeking to draw him into polemic trials of strength, and the Imam for his part could not but accept their challenge if he was to convince them. So he found himself involved in an unending round of debates. Apart from this, debate was one of the principal methods of teaching in those days, and the Imam himself had been educated by that method. The author of *'Uyun wa'l-Hada'iq* mentions in his biographical note on the Imam that he held debates with Sha'bi, Tawus and 'Ata'. These three were among the Imam's chief teachers, and he had much respect for them. What the biographer, therefore, apparently means is that the Imam was taught by the three through debates.[1]

Auza'i, Imam of Syria and founder of a regular school of *Fiqh*, during a meeting with Abu Hanifah at Mecca, said to him: "It is surprising that the people of Iraq do not lift their hands during *ruku'* and at the time of raising the head after it, although I have heard it from Zuhri, who heard it from Salim b. 'Abd-Allah, who heard it from 'Abd-Allah b. 'Umar, that the Prophet used to lift his hands at these stages." Abu Hanifah countered that with a tradition going back to 'Abd-Allah b. Mas'ud through Hammad, Ibrahim Nakha'i and 'Alqamah, according to which the Prophet was not in the habit of lifting his hands at the stages in question. "Praise be to God," exclaimed Auza'i, "I cite a tradition transmitted by Zuhri, Salim and 'Abd-Allah; but you cite against that a tradition transmitted by Hammad, Nakha'i and 'Alqamah." "My transmitters," replied Abu Hanifah, "were greater *faqihs* than yours. As for 'Abd-Allah b. Mas'ud, you know his rank very well. A

1. Some of the Imam's debates have been reported by the historian Khatib in his *Ta'rikh-i-Baghdad* and by Imam Razi in his commentary on the *ayah* "And He taught Adam all the names." They have been reported more elaborately in the *'Uqud al-Juman*. Excerpts from them are also available in some other books.

tradition transmitted by him must take precedence." Razi relates this debate in his *Manaqib al-Shafi'i*, but, while not denying that it took place, comments that being a *faqih* has nothing to do with reporting a matter of fact.[2]

The point of principle made by Razi will be discussed in the second part of this book. What is intended here by making a reference to him is to bring out the fact that the dialogue in question did take place and that even the Shafi'is do not deny it. Imam Muhammad puts the point nicely in his *Kitab al-Hujaj*. "Our tradition," he says, "ends with 'Abd-Allah b. Mas'ud, while that of the rival party goes only as far back as 'Abd-Allah b. 'Umar. The basic question at issue here is which of the two is to be preferred. 'Abd-Allah b. Mas'ud attained maturity during the Prophet's life and, as has been mentioned in the Traditions, was given a place in the first row of Companions. As against this, 'Abd-Allah b. 'Umar was only a youth, who had a place assigned to him in the second or third row. Therefore, the opportunities of observing the ways of the Prophet at close quarters that 'Abd-Allah b. Mas'ud had were not available to 'Abd-Allah b. 'Umar."

This reasoning on the part of Muhammad is based on one of the principles of *Hadith*, and the reference made by Abu Hanifah to the high rank enjoyed by 'Abd-Allah b. Mas'ud was a pointer to this principle.

One day a number of people came together to the Imam to discuss with him the question of recitation after the *imam* (the prayer-leader). The Imam said "How can I discuss the question with so many people at one and the same time? The only way for me to discuss it with you all is that you appoint one of yourselves as your spokesman." The people agreed to this. As soon as they did so, the Imam said, "There is no need for a discussion : the issue is decided. Just as one of you has been authorised to represent all of you, the leader at a prayer is authorised to recite passages from the Qur'an on behalf of the whole assembly."

2. Ibn al-Hammam mentions this dialogue in *Fath al-Qadir* and there are references to it in the *Hujjat Allah-i'l-Balighah* also.

It was not that the Imam settled a question of *Shari'ah* by mere logical reasoning. What he did was to explain by a practical illustration the meaning of a tradition which he had traced back through an authentic chain of transmission to the Prophet himself, namely, the Prophet's saying: "When a man prays behind an *imam*, the *imam's* recitation of Qur'anic *ayats is* equivalent to recitation by himself."

The Imam had the special knack of explaining the most difficult problem in such a commonsense manner that his audience understood it easily, so that the discussion came to an end at once. On one occasion Dahhak, the well-known Khariji leader who captured Kufah during the reign of the Umayyads, came to the Imam and, pointing to his sword, said, "Repent." "Repent of what?" asked the Imam. "I am told you maintain that Hadrat 'Ali agreed to have his dispute with Mu'awiyah decided by arbitration. As he was in the right, how could he agree to arbitration?" "If," said the Imam, "it is your wish to put me to death, I have nothing to say; but if you wish to find out the truth, then permit me to argue the question with you." "I too want a debate with you," said Dahhak. "If we cannot decide the issue between ourselves, what then?' asked the Imam. "We can appoint somebody as an umpire," replied Dahhak. Accordingly, one of Dahhak's followers was appointed umpire. As soon as that what done, the Imam said: "This is exactly what Hadrat 'Ali did. Why blame him for it?" Outwitted, Dahhak retired quietly.

Another interesting encounter is reported between Abu Hanifah and Dahhak. The latter, on his entry into Kufah, ordered a general massacre. Hearing of this, the Imam hurried to him and asked, "What offence has the populace of Kufah committed to deserve this?" " They are all apostates," replied Dahhak. "Have they changed their religion," asked the Imam, "or are they following the same religion as before?" "What did you say?" said Dahhak, "Repeat it." So the Imam explained his question. Dahhak realised his error and ordered his soldiers to sheathe their swords.

Qatadah Basri, a brief account of whom I have given while

speaking of the Imam's teachers, on a visit to Kufah issued a public notice inviting those interested to come and ask him questions on *Fiqh*. As he was a famous *muhaddith* and *imam*, a large number of people came and put questions to him one after another. Abu Hanifah, who was also there, posed the following problem: "A man had gone abroad. After he had been away a year or two, news came of his death. His wife thereupon married another man, to whom she bore a child. After some time the man, who was still alive, came home. He denied, while the other man claimed, fatherhood of the child. Did both the men or only the one who disowned the child impute adultery to the woman?" "Has such a situation actually arisen?" inquired Qatadah. "No," replied Abu Hanifah, "but the *'ulama'* should be ready to meet it, in case it arises." Qatadah claimed to be expert more in exegesis than in *Fiqh*. So he said: "Leave these questions aside; ask me something about exegesis." "Then kindly tell me," said Abu Hanifah, "what is the meaning of the *ayah* 'He who had knowledge of the Book said that he could produce her before him in the twinkling of an eye." The allusion in this *ayah* is to the story of how, when Solomon ordered his courtiers to have the Queen of Sheba's throne brought to him, one of them (probably Solomon's vizier, Asaf b. Barkhiya') offered to have it brought instantaneously. There was a legend among the Jews that Asaf knew the *ism-i-a'zam*, by the prowess of which he transported the throne from Syria to the Yemen in a day. This legend had become popular among the Muslims too and the *ayah* was commonly interpreted in accordance with it. Qatadah did the same. Abu Hanifah asked if Solomon himself knew the *ism-i-a'zam*, to which Qatadah replied in the negative. "Do you then subscribe to the view," asked Abu Hanifah, "that there can be in a prophet's time a man who knows more than the prophet himself?" Qatadah could give no reply to this and said, "Ask me something about beliefs." "Are you a *mu'min?*" asked Abu Hanifah. Now, most *muhaddithin* were afraid to call themselves *mu'mins* and carefully avoided doing so. There was a story in this connection about Hasan Basri. Somebody having asked him if he was a *mu'min*, he had replied, *"Insha'-Allah,"* i.e. if God wills. On the man objecting that *Insha'-Allah* was out of place in that context, Hasan

had said, "I could call myself a *mu'min*, but am afraid that God might say I was telling a lie." Qatadah gave the same reply to Abu Hanifah's question.

The fact of the matter is that it is merely a kind of superstition to refrain from describing oneself as a *mu'min*. *Iman* means belief, and if a person believes in God and His Apostle he is definitely a *mu'min* and should consider himself one. If he has doubt about God and His Apostle, he is definitely a *kafir*, i.e. an unbeliever, and there is no point in his saying, "If God wills." Abu Hanifah wanted to expose this error. So he asked Qatadah why he had given a conditional reply. "Hadrat Ibrahim," replied Qatadah, "said that he had hoped God would forgive his sins on the Judgment Day." "When God put to Hadrat Ibrahim," asked Abu Hanifah, "the question 'Are you a *mu'min*?' He replied, 'Yes,' meaning that he was a *mu'min*. Why have you not imitated Hadrat Ibrahim in this?" Qatadah got up angrily and went into his house.[3]

Yahya b. Sa'id Ansari, *qadi* of Kufah, was one of Mansur 'Abbasi's important courtiers, but was nevertheless unable to command in Kufah anything like the influence enioyed by Abu Hanifah. He used to marvel at that and say to people, "These Kufans are strange people: they blindly obey one man." One day Abu Hanifah deputed Abu Yusuf, Zufar and some other distinguished pupils of his to hold a debate with Qadi Yahya. The discussion was opened by Abu Yusuf. The question propounded was this: "If a slave belonged jointly to two men and one of the men wanted to set him free, would he have the right to do so?" Yahya replied: "No, because there is a *hadith* which says, 'An act which harms someone is not permissible.' Since the proposition in question entails loss upon the second owner, the first owner cannot rightfully set the slave free." "What if the second owner sets him free?" asked Abu Yusuf. "He will be within his rights in doing so." "You are contradicting what you said earlier," rejoined Abu Yusuf; "according to you, the slave does not become free if only one of

3. This debate has been reported by Khatib in the *Ta'rikh-i-Baghdad* and by Abu'l-Mahasin in the *'Uqud al-Juman* with slight variations.

the owners releases him, that is to say, he remains a slave. Now, if he still remains a slave, how can the second owner alone set him free? What was not permissible for the first owner cannot be permissible for the second."

Muhammad b. 'Abd al-Rahman, better known by his surname Abi Laila, was an eminent jurist, who was *qadi* of Kufah for thirty-three years. Relations between him and Abu Hanifah were strained because the latter used to point out mistakes in the former's decisions, which the former disliked, but which the latter could not help as he felt called upon to express his opinion. The *qadi* used to hear cases in a mosque. One day when he was going home after holding court, he found a woman quarrelling with a man in the street. In the course of the quarrel the woman called the man son of an adultress. The *qadi* forthwith ordered her arrest, went back to his courtroom, had the woman produced before him and sentenced her to two rounds of whipping. When Abu Hanifah was informed of this, he said: "The *qadi* has committed a number of errors in these proceedings. First, he held court irregularly, since he had already adjourned it after his day's work. Second, he had the sentence executed in the mosque notwithstanding the fact that the Prophet had prohibited the execution of sentences in mosques. Third, he had the woman whipped standing, which is not permissible in the case of women. Fourthly, he awarded double punishment for one offence, whereas he should have awarded a single sentence; and even if he had passed a sentence of double punishment, the two punishments could not be carried out simultaneously. After the first punishment there should have been allowed an interval for the culprit's wounds to heal. Fifth, as the man abused had not come forward with a complaint, the *qadi* had no right to institute proceedings." On hearing of this, Qadi Ibn Abi Laila was infuriated and complained to the governor of Kufah that Abu Hanifah was making his life miserable. The governor issued orders restraining Abu Hanifah from giving any more *fatwas*. Abu Hanifah, although he was never deterred by the fear of displeasing an official or wealthy man from speaking out the truth, obeyed this order without demur, because the giving of *fatwas*

was only a *fard al-kifayah* (a collective duty) and there were in Kufah many other '*ulama*' to give them.

During the period when he was under restraint, his daughter asked him for a *fatwa*. She was fasting and had during her fast swallowed some blood from her gums. She wanted him to tell her if her fast had been broken or not. The Imam replied to her, "Darling, ask your brother Hammad, as I have been forbidden to give any *fatwas*." The historian Ibn Khallikan, after reporting this, adds: "What better example could there be of obedience to orders and honesty?"[4] A few days later the governor, confronted with certain juristic questions which nobody else was able to solve, had to refer them to Abu Hanifah, which automatically removed the ban imposed upon the Imam.

In the records of the Imam's debates one occasionally comes across indications of a certain assertiveness and combative ardour which appears to be at odds with his customary humility and self-effacement; but then no human being can be completely devoid of emotion. In accounts of the debates of Shafi'i, Malik, Bukhari and Muslim I have found much more dogmatism and pugnacity. In fact, if the shortcomings of great men had not been brought out in the stories of their lives and the portraits of their personalities, we should have suspected that the writers of their memoirs had not presented them truthfully, but had allowed their admiration for them to colour their accounts. Very correctly has it been said by a sage that in narrating the life-stories of great and eminent men those traits of theirs should also be shown in which human nature is reflected, for this will engender in the reader's mind a desire to imitate them; whereas, if they are presented as perfect angels, people might begin to worship them, but would never think of following their example, considering them as supermen incapable of being imitated.

One day Imam Sufyan Thauri, Qadi Ibn Abi Laila, Sharik and Abu Hanifah were all present at a learned gathering—too rare

4. Ibn Khallikan, *Wafayat al-A'yan*.

an opportunity for those eager to learn to let slip by. One of those present mooted the following question : A number of men were sitting together, when a snake appeared and began to crawl up the body of one of them. He hurriedly shook it off, so that it landed on another man. The second man shook it off his body on to a third man. This went on until the last man on whom the snake landed was bitten by it and died in consequence. Now, which of these men is liable to pay *diyat* (mulct) for the man's death? This was a complex problem of *Fiqh,* on which the learned men present expressed different opinions. According to some, *diyat* was payable by all, according to others by the first man. There was a lot of discussion, but no agreed decision could be reached. Through all this Abu Hanifah sat silent and smiling. Ultimately everybody turned to him and asked him to express his opinion. The following is the ruling the Imam gave : When the first man threw the snake on to the second man and the latter escaped being bitten, the former was absolved from responsibility. The same was true of all the succeeding men except the last one who shook off the snake. Now, as regards this last man there were two possible positions : if the snake bit the next man as soon as it landed on him, then the last man to throw the snake was liable to pay *diyat;* if, on the other hand, there was an interval between the two events, then the man bitten was guilty of contributory negligence in not throwing off the snake promptly enough to save himself. This view was accepted by all present, who complimented the Imam upon his ingenuity.

Soundness of Judgment, adroitness, sagacity, intelligence and penetration are qualities which friend and foe alike regard as characteristic of Abu Hanifah. Muhammad Ansari used to say that there was wisdom in everything that the Imam did or said–in his way of talking, his manner of walking, even in his gestures. It was a favourite saying of 'Ali b. 'Asim that if the wisdom of half the world were put in one scale of a balance and Abu Hanifah's wisdom in the other, the latter would outweigh the former. Kharijah b. Mus'ab was fond of saying that, although he had met more or less a thousand learned men, he had found only three or four wise men among them, one of whom was Abu Hanifah.

The qualities that are specially attributed to *'ulama'* in our memoirs and biographies are keenness of intellect, a retentive memory, unworldliness, humility, contentment and piety; not a word is said about their possessing qualities like good judgment, discretion, sagacity and shrewdness, as if these were qualities reserved for worldly men. Ibn Khaldun clinches the matter by saying bluntly that the *'ulama'* as a class are not suited to administration and management of affairs; and this is true, although in reality the *'ulama'* need to be suited to these tasks more than other people. Unlike other religions, Islam lays down laws not merely for the spiritual but also for the temporal life. Who, for example, among the kings and rulers of the world could surpass the early Caliphs in statecraft and administration? Abu Hanifah is undoubtedly in a class by himself among the *'ulama'* in this that he was skilled in worldly matters in addition to being an expert in religious affairs. That is why his school of jurisprudence is better fitted to government and public affairs than any other school. Most of the great ruling dynasties in Islamic history were, therefore, followers of Abu Hanifah.

Although the Imam established no connections with the caliphal court, yet his relations with the public were such that he was by himself a political institution, and he performed his duties of leadership with a wisdom and intelligence that would do credit to an administrator. Unlike the religious leaders who were his contemporaries, he taught his pupils not to be dependent upon the generosity of the rich for the fulfilment of their worldly needs, but to fend for themselves, as he did for himself. I have studied the full list of his pupils and have found among them many who, after graduating from his college, attained to positions of importance under the government and discharged their functions with eminent ability and honesty. Qadi Abu Yusuf, who was minister of justice under Harun al-Rashid and whose good management gave his department an organisation which not only was unprecedented but remained unsurpassed under later regimes, owed all this to the training he had received from the Imam.

The Imam was conscious of the difficulty of combining religious and moral duties with political attachments and therefore always gave his pupils such instructions as would enable them to do well in both spiritual and temporal affairs in accordance with the *ayah*: "Grant us bliss in this world and also in the hereafter." Although Qadi Abu Yusuf did not establish any connections with the court during the Imam's lifetime, yet his inborn ability, fostered by the Imam's training, held out ample promise that he would one day do so. In view of this the Imam gave him a written set of instructions designed to be guidelines in all important religious and secular matters. These instructions have been reproduced in certain books. Unfortunately, their length prevents me from reproducing them in full. I, therefore, content myself with giving a digest of them with some excerpts.

The instructions, at the outset, treat of relations with the ruling monarch. "Go rarely to see him," says the Imam, "and beware of him as if he were fire. Never go to court except for some specific purpose, lest you lose the respect you enjoy there. Avoid it especially when there are present there people whom you do not know, for, since you are not aware of their rank, you might speak to them in a manner inappropriate to their position. If they are higher than you and you do not show due regard for this, it will be considered as bad manners. If, on the other hand, they are ordinary people and you show them too much respect, you will lower yourself in the king's eyes. Should the king offer you the post of *qadi*, do not accept it without making sure that he approves of your exercising your personal judgment, lest you should have to act against it under official pressure. Never accept a position which you are not fit to hold."

Although a lot of emphasis has been laid in the instructions on showing due respect to the king, yet at the same time complete freedom has been enjoined in expressing the truth. "If," say the instructions, "you find someone guilty of improper innovation in matters of the *Shari'ah,* point out his error, so that others are discouraged from following his example. Never mind if the man is

powerful or wealthy, for in declaring the truth God will support you, since He is the guardian and protector of the Faith. Even if it is the king himself whom you find doing something improper, do not hesitate to call his attention to it. Tell him frankly that, though as his *qadi* you are subordinate to him, yet it is your duty to point out to him his errors. If he pays no heed to this, speak to him in private and explain to him that the action in question is contrary to the Qur'an and Prophetic Traditions. If he realises his mistake, well and good; otherwise, pray to God to save you from the evil that is in him."

There are useful tips, too, about the daily tasks of life. "Consider the acquisition of knowledge as your parimary task. After you have completed it, turn to acquiring wealth by legitimate means; for knowledge and wealth cannot be acquired simultaneously. Thereafter, marry, but only when you are sure that you will be able to shoulder the responsibility of looking after a family. Do not marry a woman who has children by a former husband. Mix sparingly with the common people and the rich; the latter might think that you expect something from them and might be led by this to offer you bribes. Strictly avoid going to the bazar, sitting with shopkeepers, eating in the street and the mosque, drinking at public wateringplaces or drinking water served by water-carriers, and the like. When someone seeks a ruling from you, confine yourself to answering his question and do not add anything unsolicited. Do not discuss questions of belief with the common people. Treat your pupils with such sincerity and kindness that strangers are led to think they are your own children. Avoid engaging in debate with the common people and people of inferior rank. When you visit a city other than your own, conduct yourself towards the men of learning there in such a way that they do not look upon you as a rival. When you discourse on learned subjects, speak after due reflection and say only that of which you can produce sufficient proof. In debating be courageous and steadfast; if you have the slightest fear in your heart you will not be able to keep your thoughts collected and your tongue will stammer. Never get involved in discussion with people who do not know the rules

of debate or who become unpleasant. During a debate never get angry and laugh little, for laughter can hurt your adversary's susceptibilities. Do everything in a calm and collected manner and with dignity. Unless a person accosts you face to face, do not reply to him, for accosting from behind is a habit peculiar to animals. While walking, do not look to right or left. When you go to a *hammam,* pay more than the common people. Never do any shopping yourself; let your servants do it for you. Leave your domestic management in the hands of trustworthy servants, so that you have enough time for your proper duties. Never reside in the vicinity of the royal court. Let everything you do or say demonstrate your in difference to worldly matters and personal interests: keep this up even in poverty. Never deliver a sermon to gatherings of common people, for in addressing such gatherings one is often compelled to tell lies. If you permit any of your pupils to take a *Fiqh* class, attend his lectures in order to form an estimate of his ability. Should he make a mistake, point it out at once, otherwise those present might think that what he had said was correct. In subjects other than *Fiqh* you need not personally attend classes taken by your pupils, but should depute your trusted friends or pupils to bring you a report."

"Let piety and faithfulness mark every action of yours. Have the same relations with God inwardly as you profess outwardly. As soon as you hear the *adhan* get ready for saying your prayer. Reserve three or four days for fasting in every month. After every prayer recite a *wazifah.* Never miss reading the Qur'an. Do not incline much to the world. Go frequently to a graveyard. Abstain from pleasure-seeking and amusement. If you see any defects in your neighbours, try to hide them. Avoid the company of heretical innovators. Do not be *imam* at prayers unless asked to do so. When people come to see you, converse with them on scholary subjects: if they are scholars, they will gain something; if not, they will at least learn to respect you."

One of the Imam's pupils, 'Abd al-'Aziz b. Rawad, having been summoned by the Caliph, came to the Imam for advice. He

said that he intended to deliver a sermon before the Caliph, but did not know what to say and how to say it. "Say," counselled the Imam, " 'Commander of the Faithful, there can be only three objects of worldly pursuits, namely, honour, territory and wealth. You have all three. Turn now to piety and virtuous deeds, so that you acquire the good things of the other world.' "

Some of the Imam's wise sayings are worth recording here.

"Who can be a greater wastrel than a man whom even learning has not been able to keep away from sin and depravity?"

" A person who discourses on religion without remembering that he will be questioned by God on what he says knows the value of neither religion nor his own mind."

"If the '*ulama*' are not God's friends, then God has no friends in the world."

"Whoever hankers after royal power before he is ripe for it meets with humiliation."

"Knowledge never sinks into the mind of a person who acquires it for worldly purposes."

"Faith is the highest worship and faithlessness the greatest sin. One who adheres to the highest worship and avoids the greatest sin can hope for salvation."

"A man who learns *Hadith* but does not deduce from it answers to religious questions is like a chemist who has medicines in his shop but does not know which to prescribe for what disease."

"Discoursing on learned themes before a man whe has no taste for learning is torturing him."

"What an error to amass sins for one's friend (that is, one's soul) and wealth for one's enemies (that is, one's heirs)!"

Somebody having asked the Imam what could aid one in

learning *Fiqh*, he answered, "Peace of mind." "How to acquire it?" asked the man. "Reduce your attachments," replied the Imam. "How can one reduce one's attachments?" asked the man further. "Take what is essential and leave what is not," counselled the Imam.

Somebody asked the Imam one day what he thought of the battles between 'Ali and Mu'awiyah. "My mind," replied the Imam, "is always full of fear about things on which I shall be questioned on the Judgment Day. I am sure that this is not one of them. So I do not think much about it."

It would not be right to conclude from this that the Imam had no personal opinion to express on the subject. He has himself said somewhere else: "If we did not have Hadrat 'Ali's example before us, we would not have known how rebels should be dealt with." Shafi'i also made a similar statement. However, it is idle to treat matters of this kind as of essential importance to Islam and to pile up controversies about them; and this apparently is what the Imam was hinting at.

A man wanting to join the Imam's classes came with a letter of recommendation. On the letter being given to him, the Imam said: "Where knowledge is concerned there is no question of recommendation. It is the *'ulama's* duty to impart what they know to others."

The governor of Kufah asked the Imam once why he kept away from him. The Imam replied: "A loaf of bread and a few yards of ordinary cloth acquired peacefully are better than luxury bought with self-humiliation."

The Imam occasionally used to write verse, not as an exercise in artistic creation, but merely as a vehicle for moral instruction. Here is a translation of two of his couplets:

"A man, while he is alive, needs a decent house to live in respectably. If he has such a house, he should be grateful and endeavour for a house in the next world."

The Imam's intelligence and quick-wittedness are proverbial, so much so that even where a brief description is given of him these qualities are invariably mentioned. Dhahabi has written only a brief note on him, but even so could not omit saying: "He was one of the most intelligent of Adam's children." His mind worked so quickly in solving the most complicated problems that the observers were astounded. It often happened that a problem was posed to an assembly of *'ulama'*, including Abu Hanifah. Some of the *'ulama'* were his compeers in learning and also knew the answer to the problem, but it was Abu Hanifah alone who gave a reply suited to the circumstances.

Once a man, getting angry with his wife, said to her on oath, "I am never going to speak to you until you speak to me." The woman was his match in temper, so she repeated the same words on oath. When their tempers cooled, they were both sorry for what they had said. The man went to Sufyan Thauri and related the incident to him. Sufyan ruled that the only course open was for the man to make atonement for his oath. Disappointed the man approached Aba Hanifah. The Imam said: "Go and talk to each other as much as you like. There is no question of atonement." When Sufyan Thauri got to know of this, he was very angry and, going to Abu Hanifah, reproached him for giving incorrect answers to people's questions. The Imam sent for the man and made him reiterate his story. Then he turned to Sufyan and said, "I repeat what I said earlier." "Why?" asked Sufyan. "When the woman," replied Abu Hanifah, "repeated her husband's words, she took the initiative in speaking to him. So the husband's condition was fulfilled."[5] Sufyan Thauri could not but agree. "Things that occur to you on the spur of the moment," said he to Abu Hanifah, "are beyond the ingenuity of common men."

A man celebrated at Kufah the marriages of two of his sons together, with much pomp and ceremony. Eminent citizens, including Mus'ir b. Kudam, Husain b. Salih, Sufyan Thauri and Abu Hanifah, attended the *walimah* feast. In the midst of the feast

5. Razi narrates this incident in his *Tafsir-i-Kabir*.

the host rushed in, looking distracted, and said: "A horrible thing has happened." "What has happened?" asked some of the guests. "Through bungling on the part of the womenfolk," replied the host, "the brides got exchanged, so that each of them slept with the other's bridegroom. What am I to do now?" "A similar thing happened during Amir Mu'awiyah's reign," said Sufyan. "It was held that this kind of mix-up does not affect the marriage contract. All that is necessary is for the husbands to give the *mahr* to their wives." Mus'ir b. Kudam requested Abu Hanifah to express his opinion. The Imam asked for the husbands to be produced before him. When they came, he took them aside one after a nother and asked each whether he would like the woman who had spent the night with him to be his wife. Both of them answered in the affirmative. The Imam thereupon advised each of them to divorce the woman to whom he had been married and get married to the woman with whom he had slept. Although Sufyan's answer also was correct from the point of view of *Fiqh*, because this was a case of "cohabitation in error," in which the marriage tie does not get dissolved, yet the Imam in giving his ruling kept expediency in view. He realised that it would be impossible for the men and the women to forget what had happened and that the memory would keep hurting their pride and sense of honour. Even if they did agree under compulsion to retain the marriage tie, there would never be between the men and the women that sense of belonging to each other completely which is the real purpose of marriage. Again, the *mahr* would be reduced, because, if there is a divorce before consummation, only half the *mahr* is payable.

Laith b. Sa'd, a famous *imam* of Egypt, relates that he had heard so much about Abu Hanifah that he longed to meet him. On a pilgrimage to Mecca he found a crowd collected with a man sitting in the midst of it, whom people were questioning one after another on religious matters. One of them, going forward, said to the man, "O Abu Hanifah!" When Abu Hanifah turned to him, the man said, "I have a bad tempered son, who keeps divorcing the women to whom I get him married and setting free the slave-girls I give him. Tell me what to do with him." "Take him to the

slave-market," replied the Imam promptly, "and buy for him a slave-girl whom he himself chooses; then have him married to her. He will not then be able to set her free, since she will not be his property. Even if he divorces her, you will lose nothing, because she will continue to be your slave." Sa'd says that he was more surprised by the Imam's ready wit than by the answer.

Rabi', Caliph Mansur's chamberlain, was hostile to Abu Hanifah. One day, when the Imam was summoned to court, Rabi' was in attendance. Addressing Mansur, he said, "Commander of the Faithful, this man contradicts your well-revered ancestor ['Abd-Allah b. 'Abbas]. Your ancestor said that if a man took a vow and uttered the phrase *insha'-Allah* a day or two later, the phrase would be considered as forming part of his vow and it would not, therefore, be incumbent upon him any longer to fulfil the vow. Contrary to this, Abu Hanifah gives the ruling that if the phrase *insha'-Allah* was spoken along with the vow it would be considered as part of the vow, while otherwise it would be utterly meaningless and ineffectual." "Commander of the Faithful," rejoined Abu Hanifah, "Rabi' thinks that the oath of allegiance to you that people take is ineffectual." "How is that?" asked Mansur. "He supposes," replied the Imam, "that people after swearing allegiance to you in your court say *insha'-Allah* when they go home and thus absolve themselves from their oath, so that they are no longer liable to any legal penalty for breaking it." Mansur burst into laughter and said to Rabi', "You cannot trick Abu Hanifah." Later, when they were leaving the court together, Rabi' said to the Imam, "You very nearly got me put to death today." "It was your intention to get me put to death," said the Imam: "I only defended myself."

One day a number of Kharijites invaded the Imam's house and, catching hold of him, said, "Say, you abandon *kufr.*" The Imam promptly said, "I abandon your *kufr.* " The Kharijites maintain that by committing a sin a man becomes a *kafir,* which amounts to saying that sin and *kufr* are identical. What the Imam meant was that he repented of what they thought to be *kufr.* Somebody later on went to the Kharijites and told them that the

the host rushed in, looking distracted, and said: "A horrible thing has happened." "What has happened?" asked some of the guests. "Through bungling on the part of the womenfolk," replied the host, "the brides got exchanged, so that each of them slept with the other's bridegroom. What am I to do now?" "A similar thing happened during Amir Mu'awiyah's reign," said Sufyan. "It was held that this kind of mix-up does not affect the marriage contract. All that is necessary is for the husbands to give the *mahr* to their wives." Mus'ir b. Kudam requested Abu Hanifah to express his opinion. The Imam asked for the husbands to be produced before him. When they came, he took them aside one after a nother and asked each whether he would like the woman who had spent the night with him to be his wife. Both of them answered in the affirmative. The Imam thereupon advised each of them to divorce the woman to whom he had been married and get married to the woman with whom he had slept. Although Sufyan's answer also was correct from the point of view of *Fiqh*, because this was a case of "cohabitation in error," in which the marriage tie does not get dissolved, yet the Imam in giving his ruling kept expediency in view. He realised that it would be impossible for the men and the women to forget what had happened and that the memory would keep hurting their pride and sense of honour. Even if they did agree under compulsion to retain the marriage tie, there would never be between the men and the women that sense of belonging to each other completely which is the real purpose of marriage. Again, the *mahr* would be reduced, because, if there is a divorce before consummation, only half the *mahr* is payable.

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Imam had befooled them. So the Kharijites came back to the Imam and asked him to explain why he had tricked them with a verbal quibble. "Is it your conviction or merely a suspicion that I have done so?" inquired the Imam. "No, it is only suspicion," replied the Kharijites. "In that case," said the Imam, "you should beg God's forgiveness, because God has Himself said, 'Verily, sometimes doubting is a sin.' "

One day, when the Imam was sitting in a mosque surrounded by his pupils, a group of Kharijites rushed in. Frightened, the pupils started running away. The Imam, however, stopped them, told them to have no fear, and asked them to resume their seats. The leader of the Kharijites went up to the Imam and said, "Who are you people?" "People seeking refuge," replied the Imam. "God has said, 'If any polytheist seeks refuge, give it to him, so that he may listen to God's *kalam*, and then escort him to a place of safety.' " The Kharijites considered every Muslim not belonging to their sect as a *kafir* deserving to be put to death. This group had come with the intention of getting Abu Hanifah to state his form of belief, charge him with *kufr* and assassinate him; but they were disarmed by the verse quoted by the Imam, which imposed an obligation on them to protect his life and the lives of his pupils. So the leader said to his men, "Recite the Qur'an for them to hear and then escort them to their homes."

Abu'l-'Abbas, who held a high position in Mansur's court, was the Imam's enemy, always intent upon harming him. One day when the Imam presented himself at court for some piece of business, Abu'l-'Abbas also happened to be present. He confided to his friends that he was going to see to it that the Imam did not leave the court alive that day. Turning to the Imam, he said: "Abu Hanifah, it sometimes happens that the Commander of the Faithful orders us to put somebody to death, without our knowing whether or not the man is guilty and merits being put to death. In such cases ought we to carry out the order or refuse to do so?" "Are the Caliph's orders in your opinion right or wrong?" inquired the Imam. Who could have the boldness to affirm in Mansur's presence even

the possibility of any of his orders being wrong? So Abu'l-'Abbas was compelled to say that the Caliph's orders were right in his opinion. "Then it was unnecessary for you to ask for my views," said Abu Hanifah.

Once a man declared that, if he had a bath that day after intercourse with his wife, that would have the same effect as if he had pronounced the formula of divorce against his wife three times. A little later he said that, if he missed any prayer that day, his wife would stand divorced. Later still he said that, if he did not have intercourse with her that day, that would mean that he had divorced her. Some people came to Abu Hanifah to get a ruling from him about these utterances of the man. His ruling was this: "Let him have intercourse with her after his *'asr* (afternoon) prayer; as soon as the sun sets, let him have his bath and then say his prayer. In this way he can fulfil all the conditions—having intercourse with his wife during the day, not missing any prayer and not having his bath during the day."

One day a man came to the Imam and said: "I kept some money somewhere in my house, but do not remember exactly where. I now need the money badly. Please tell me how I can find it." "Brother," protested the Imam, "I do not find this kind of problem mentioned in *Fiqh*. Why have you come to me for advice?" But on further entreaty by the man he advised him to pray throughout the night. The man, accordingly, went home and started praying. He had prayed for a little while when he suddenly remembered where he had put the money. So he ran to the Imam and told him of the efficacy of his advice. "Of course," commented the Imam, "Satan could not brook the idea of your praying for a whole night. So he made you remember at once where you had put your money. However, you ought to have prayed throughout the night by way of giving thanks to God."

On another occasion a man sought the Imam's help in finding some articles he had buried in some part of his house, which he could not recall. "If you don't remember the spot," remarked the

Imam, "how can I?" The man started crying. So the Imam went to his house with some of his pupils. "If this house were yours," said he to them, "where would you hide things for safety?" They made three or four guesses. The Imam ordered the spots guessed by them to be dug up, the third of which yielded the buried articles.

For all his solemnity and dignity, the Imam occasionally liked to crack a joke. Here are a few witty remarks made by him. One day he said to his barber, who was trimming his hair, "Pluck the grey hairs." "Hairs plucked," said the barber, "grow again and thicker than before." "If that is so," ordered the Imam, "then pluck all the black hairs so that they grow again and thicker." Hearing of this repartee, Qadi Sharik remarked, "Abu Hanifah did not abandon arguing by analogy even in talking to his barbar."

There lived in the Imam's lane a miller who was a fanatical Shi'ah and who had, therefore, named his two donkeys Abu Bakr and 'Umar, respectively. One day one of the donkeys kicked the miller so hard in the head that he died. Hearing of this, the Imam said, "It must be the donkey whom he had named 'Umar." On inquiry, the guess was found correct.

There was a *Ghali* Shi'ah at Kufah who used to say that the Caliph 'Uthman was a Jew. The Imam went to him one day and said: "You were on the lookout for a husband for your daughter. I know a man who is rich and at the same time pious : he prays throughout the night and is a *hafiz* of the Qur'an." "Who could be better than he," said the man, "as a husband for my daughter? Please fix up the marriage." "But there is one thing," said the Imam; "he is of the Jewish faith." The man was furious and exclaimed, "What? You advise me to marry my daughter to a Jew!" "What does it matter if he is a Jew?" rejoined the Imam. "If the Apostle of God himself gave his daughter to one whom you call a Jew, why should you have any objection to a Jew for a son-in-law?" Miraculously enough, the man was so deeply moved by this that he abjured his erroneous belief.

Second Part

The Imam's Writings

Chapter VIII

Abu Hanifah's Writings

There are three books attributed to Abu Hanifah, namely, *Fiqh Akbar, al-'Alim wa'l-Muta'allim* and *Musnad.*

The *Fiqh Akbar* is a brief treatise on dogmatics, dealing with the same questions and more or less in the same order as the *'Aqa'id* of Nasafi and other writings on the subject. It has been published and is available everywhere. Many commentaries have been written on it, such as those of Muhyi al-Din Muhammad b. Baha' al-Din (d. 953 H.), Maula Ilyas b. Ibrahim al-Sinubi, Maula Ahmad b. Muhammad al-Maghnisawi, Hakim Ishaq, Shaikh Akmal al-Din and Mulla 'Ali al-Qari, the last-mentioned being the most popular. Manuscripts of some other commentaries are also to be found here and there. Hakim Ishaq's commentary was versified by Abu'l-Baqa' Ahmadi in 918 H. and the *Fiqh Akbar* itself by Ibrahim b. Hisam, popularly known as Sharifi.

Al-'Alim wa'l-Muta'allim is a small treatise in the form of question and answer. I have, however, not seen it.

Of the *Musnad* there were several versions, which were collected in a single volume by Abu'l-Mu'yid Muhammad b. Mahmud al-Khwarazmi (d. 665 H.). Here is an extract from his Preface:

"I heard a number of ignoramuses in Syria say that Imam Abu Hanifah was not well versed in the *Hadith*, which, according to them, explained why there was no book by him on the subject. This was a challenge to my sense of loyalty, in answer to which I decided to compile together all the *musnads* which have been composed by different *'ulama'* on the basis of Traditions narrated by Abu Hanifah. These are as follows:

(1) The *musnad* of Hafiz Abu Muhammad 'Abd-Allah b. Muhammad b. Ya'qub al-Harithi al-Bukhari, better known as 'Abd-Allah al-Ustad;

(2) the *musnad* of Imam Abu'l-Qasim Talhah b. Muhammad b. Ja'far al-Shahid;

(3) the *musnad* of Hafiz Abu'l-Hasan Muhammad b. al-Muzaffar b. Musa b. 'Isa;

(4) the *musand* of Hafiz Abu Nu'aim al-Isbahani;

(5) the *musnad* of Shaikh Abu Bakr Muhammad b. 'Abd al-Baqi Muhammad al-Ansari;

(6) the *musnad* of Imam Abu Ahmad 'Abd-Allah b. 'Adi al- Jurjani;

(7) the *musnad* of Imam Hafiz 'Umar b. Hasan al-Ushnani;

(8) the *musnad* of Abu Bakr Ahmad b. Muhammad b. Khalid al-Kula'i;

(9) the *musnad* of Imam Abu Yusuf Qadi;

(10) the *musnad* of Imam Muhammad;

(11) the *musnad* of Hammad b. Imam Abu Hanifah;

(12) the *Athar* of Imam Muhammad; and

(13) the *musnad* of Imam Abu'l-Qasim 'Abd-Allah b. Abi al-'Awwam al-'Adi"

There are other *musnads* besides those listed by Abu'l-Mu'yid, such as those of Hafiz Abu 'Abd-Allah Hunain b. Muhammad b. Khusrau al-Balkhi (d. 523 H.), Hasfaki (a commentary on which was written by Mulla 'Ali Qari), Mawardi and Ibn al-Bazzazi (d. 827 H.). Commentaries were also written on these *musnads*.

People who consider writings as an essential ingredient of the Imam's greatness cite the abovementioned works. The truth, however, is that it is extremely difficult to establish the Imam's authorship of them. It is true that a system of *Fiqh* based upon his

teachings was compiled during his lifetime, references to which are to be met with in the '*Uqud al-Juman* and other books, but what is most probable is that that compilation was lost. The names of thousands of books of that period occur in biographical memoirs but not more than two or three are extant in the libraries of the world. Even the great books of *Hadith* and *Fiqh* known to have been written by the Imam's contemporaries, Sufyan Thauri, Auza'i, Hammad b. Salamah, Hushaim, Ma'mar, Jarir b. 'Abd al-Hamid, and 'Abd-Allah bin al-Mubarak, no longer exist. We cannot but agree with Razi's statement in the *Manaqib al-Shafi'i* that no book of Abu Hanifah has survived.

Khwarazmi's *musnad* can be called the Imam's only derivatively. Khwarazmi lived in the seventh century of the Hijrah and the *musnads* he has compiled date back mostly to the third or fourth century or even to later period. Hammad and Qadi Abu Yusuf, on the other hand, were the Imam's contemporaries and their *musnads* can undoubtedly be ascribed to him. But it is noteworthy that nobody except Khwarazmi has mentioned these *musnads*, which argues against their authenticity: for a book of *Hadith* cannot be regarded as authentic unless established by well-known authorities. We can perhaps take Shah Wali-Allah's verdict on this issue as decisive. He writes thus in the *Hujjat-Allah al-Balighah*: "Books of the fourth period are those whose authors tried after the lapse of a long time to collect narratives which were not extant in books of the first two periods and were to be found only in little-known *musnads* and collections. These authors tried to give prominence to such narratives, although they had either been transmitted by persons upon whom the *muhaddithin* do not rely, as, for example, loquacious preachers, innovators and weak transmitters, or were annals of the sayings of the Companions and Successors, of Jewish legends, or sayings of philosophers and preachers, which the transmitters had mixed up with the sayings of the Prophet, or doubtful citations from the Qur'an or the *Hadith* which had been paraphrased by people not conversant with the subtleties for the art of narration and ascribed to the Prophet, or inferences drawn from the Qur'an and the *Hadith* and presented

as Prophetic Traditions or, finally, bits of different Traditions strung together into single passages. Traditions of these kinds are to be met with in the *Kitab al-Du'afa'* of Ibn Habban, *Kamil* of Ibn 'Adi, and books of Khatib, Abu Nu'aim, Jauzaqani, Ibn 'Asakir, Ibn Najjar and Dailami. Khwarazmi's *musnad* belongs more or less to the same period.

Shah Wali-Allah, however, goes on to say, rather meticulously, that *musnads* attributed to the Imam's disciples are neither mentioned in history books nor are these extant. *Musnads* written much later than the Imam's time, however, are extant, but it is highly doubtful if the Traditions recorded in them can be traced back to the Imam by an unbroken chain of authoritative transmitters. What is more, some of the *musnads* contain internal evidence of unreliableness. In Hasfaki's *musnad* there are many Traditions attributed to the Imam and described as having been heard by him from the Companions, whereas research by *muhaddithin* does not establish that the Imam heard Traditions from any of the Companions. Khwarazmi has included even the *Athar* of Imam Muhammad in Abu Hanifah's *musnads*. True, most of the narrations in that book were made by the Imam, and the readers are, therefore, at liberty to call it either Abu Hanifah's *musnad* or the *Athar* (memorable sayings) of Imam Muhammad. But it is to be remembered that Imam Muhammad has in this book quoted sayings and traditions of other leading masters also, which makes it more appropriate to ascribe the book to him.

The *Fiqh Akbar* has been ascribed to the Imam by Fakhr al-Islam Bazdawi, 'Abd al-'Ali Bahr al-'Ulum and by those who have written commentaries on it. Nevertheless, I find it difficult to accept this. The style in which the book is written had not yet come into existence at the time it is said to have been written. It is a regular text with the brevity and orderliness characteristic of books of a later period. Again, there occur in it the words *jauhar* and *'arad*, which are philosophical terms that had not yet come into use. It is true that Greek books were translated into Arabic in the time of Mansur the Abbasid, but that happened towards the end of the

Imam's life. It is improbable that these philosophical terms gained so much currency immediately after the translations as to be used in common writings. Philosophical terms found entry into religious literature only after they had became part and parcel of Arabic through frequent use and had become indispensable even in ordinary discourse. That, however, happened after the Imam's time.

So much from the point of view of textual criticism. Even from the point of view of historical criticism it is not established that Abu Hanifah was the author of the *Fiqh Akbar*. There is no mention of the work in writings of the second and third centuries. The earliest book in which, as far as I know, the *Fiqh Akbar* has been mentioned is Fakhr al-Islam Bazdawi's *Kitab al-Usul,* which was written in the fifth century. The Imam had thousands of disciples, most of whom were masters in their own right; and each of these in turn had thousands of disciples. It is highly improbable that if there had existed a work by the Imam, not one of the hundreds of thousands of his direct and indirect disciples should have made a reference to it. There is no mention of the *Fiqh Akbar* in any of the well-known books on dogmatics and allied subjects, such as the *Saha'if*, the *Sharh Maqasid,* the *Sharh Mawaqif* and the *Milal wa'l-Nihal.* All the commentaries on the book were written in or after the eighth century. Furthermore, Abu Muti' Balkhi, the *rawi* of the book, is not acknowledged as an authority on Traditions and the appraisal of Traditions. In biographical works by *muhaddithin* severely critical comments have been made on him. Although I do not fully endorse those comments, yet a book of doubtful credence having no evidence of its existence beyond the word of Abu Muti' Balkhi cannot pass the test of the principles of *Hadith.*

What seems to me probable is that a treatise written by Abu Muti' Balkhi and embodying his own ideas on questions of belief came in course of time to be attributed to the Imam. This conjecture is supported by the fact that Dhahabi, speaking of Abu Muti', in his *'Abr fi Akhbar min Ghabr*, describes him as the "*Sahib al-Fiqh al-Akbar,*" which clearly suggests that he considered Abu Muti' as

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the author of that work. I further believe that the present text and composition of the *Fiqh Akbar* belong to a period much later than that of Abu Muti'. Nor is this something unparalleled. The *Jami' Saghir,* a work by Imam Muhammad, was given its present form by Abu Tahir Dabbas, who lived in the fourth century. There is, however, a difference. The present text of the *Jami' Saghir* is the original text, but its arrangement has been changed. On the other hand, the text of the *Fiqh Akbar* from its style appears to belong to a later period.

Although I have allowed my personal opinion and judgment to intrude into this discussion, I have related all the facts known to me. I do not insist on the reader accepting my version of them; but my conclusion from the facts is that no work by Abu Hanifah is extant today.

Chapter IX

Beliefs and Kalam

As I have already mentioned, Abu Hanifah was very much attracted to *kalam* in the early part of his educational career. Towards the close of the period of the Companions many new sects arose. Ma'bad al-Juhani introduced the doctrine of *Qadr*. Wasil b. 'Ata', who was a great scholar of Arabic literature and *kalam* and a disciple of Hasan Basri, laid the foundation of *i'tizal*. Jahm b. Safwan founded the Jahmiyyah sect. Several sects of the Kharijites had already come into existence. All these sects were propagating their doctrines in Abu Hanifah's time, and the whole Islamic world rang with religious controversies. The Imam also participated in the controversies for the sake of repudiating the new-fangled doctrines. There can be no doubt that with his extraordinarily keen intellect he made some subtle contributions, but as his interest in *kalam* soon yielded place to occupation with the problems of *Fiqh*, there is no record available of his debates on *kalam*. However, there are a few tenets all along attributed to him. These bear the stamp of his penetration, originality and wide reach of intellect. We mention some of these, which are very controversial questions among the *muhaddithin*.

To begin with; the Imam does not regard duties and actions as part of faith. It is superfluous today to discuss this point, for even a man of common intelligence today knows that faith means belief, which is a state of mind, while duties and actions are overt exercises of the human organs, the two categories being disparate and incapable of combining or forming part of each other. In the Imam's time however, this was a very debatable point, to which most scholars of the positive disciplines, some original thinkers among them, were opposed.

Up to the time of the Companions the surface of Islamic beliefs remained smooth and undisturbed. The Arabs were not interested in philosophical hairsplitting and abstruse questions. But about

the middle of the Umayyad period the decline of military power and the development of culture created an interest in intellectual speculation. Debates started about *jabr* (compulsion) and *qadr* (predestination), *tashbih* (comparing God to man) and *tanzih* (keeping God pure), *'adl* (divine justice) and *jaur* (divine tyranny). The debates were initiated by people who were either of *'Ajami* (non-Arab) origin or had come under the influence of *'Ajami* thought. Religious circles, which consisted mostly of Arabs, reacted violently to these new voices, and scholars of *Hadith* and *Fiqh* came into the arena to contend against their heresies. For that purpose they had to adopt some attitude, whether positive or negative, towards the new questions raised; but some of them were carried by their combative ardour beyond the limits of moderation. For example, the Mu'tazili doctrine that the Qur'an was the word of God that came into being with the apostleship of the Prophet of Islam was countered by some *muhaddithin* with the proposition that even the pronunciation of the Qur'an was eternal and uncreated. Dhuhali, who was one of Bukhari's teachers and who has been cited as the authority for many of the Traditions narrated in Bukhari's *Sahih,* got so angry with Bukhari during a discussion on the doctrine that he had him expelled from his class and even went to the length of making it known that anyone associating with Bukhari would not be permitted to attend his classes.[1] Bukhari believed in the *qidam* (eternity) of the Qur'an, but held that its *qira'at* (mode of recitation) was *hadith* (temporal), whereas Dhuhali maintained that it also was eternal.

Extreme views of a similar kind were held on certain other questions too, which it is unnecessary to describe in detail here. In all the debates in which he took part Abu Hanifah concerned himself with the kernel of the question at issue, combining a rational with a factual approach. One of these questions was the relationship between faith and works. The Murji'ah held that faith and works were two different things and that, given perfect faith, works were of no importance. According to them, if a person sincerely believed in divine unity and the prophethood of Muhammad but was remiss

1. Hafiz Ibn Hajar has narrated this in detail in his *Fath al-Bari.*

in performing his duties, he was exempt from punishment. Although the first part of this proposition was correct, the *muhaddithin* mixed up the two parts and totally opposed the proposition. Their opposition gathered strength from the support that it received from a superficial interpretation of some passages of the Qur'an on the subject. This was a question of personal opinion and if it had stopped at that it would not have mattered very much. Unfortunately, however, these worthies went to the extreme of branding those who disagreed with them as sinners and infidels. Sharik, when Abu Yusuf appeared in his court as a witness, declared that he was not willing to accept the evidence of anyone who did not consider the performance of prayers as part of faith.

Abu Hanifah always tried to arrive at the truth of a doctrine, irrespective of what person or sect held it. When this debate was reported to him, he declared that, according to him, faith and works were two separate things, on a different footing from each other. Upon this many people called him a Murji'ite, but he was happy to be called that rather than slur over the truth. Indeed, this title was conferred upon all the *muhaddithin* and *fuqaha'* who were at one with Imam Abu Hanifah on this issue. The *muhaddith* Ibn Qutaibah has in his famous book *al-Ma'arif* listed the names of many of these, including Ibrahim Taimi, 'Amr b. Murrah, Talaq al-Habib, Hammad b. Sulaiman, 'Abd al-'Aziz b. Abi Dawud, Kharijah b. Mus'ib, 'Amr b. Qais al-Asar, Abu Mu'awiyat al-Darir, Yahya b. Zakariya' and Mus'ir b. Kudam, all of them *imams* of *Hadith* and *riwayat*, hundreds of Traditions narrated by whom have been cited in Bukhari's *Sahih*. Some superficial observers of today, who are scandalised at the fact that some traditionists have called Imam Abu Hanifah a Murji'ite, would be shocked to see Ibn Qutaibah's list. The *muhaddith* Dhahabi, speaking of Mus'ir b. Kudam in his *Mizan al-I'tidal*, writes: "*Irja'* is a school of thought subscribed to by many great scholars, and adherents of this school should not be denounced." This was the same *irja'* which was Imam Abu Hanifah's creed.

This doctrine, though apparently not very imposing, had far-

reaching implications. That was why Abu Hanifah professed it freely and frankly. A logical corollary of holding work to be part of faith was the proposition that a man devoid of works could not be a *mu'min* (believer), which was what the Kharijites maintained. Although most *muhaddithin* did not consider such a man to be an infidel, that was only because they overlooked the corollary, despite its being inevitable.

Imam Razi, a great supporter of Imam Shafi'i, discussing in his *Manaqib al-Shafi'i* the charge often made against Shafi'i that he believed in contradictory things, mentions as an instance the objection that while, on the one hand, he held faith to be a combination of profession and practice, he asserted, on the other, that absence of practice did not turn one into an infidel, although a combination could not remain in existence as such if one of the things combined was absent—which, Razi goes on to say, was why the Mu'tazilah, who believed that works were a part of faith, also maintained that without works faith could not exist. He answers the objection by saying that the substance of faith is confession and affirmation, while works are the consequences and products of it and that, since things are sometimes metaphorically spoken of in terms of what ensues from them, works have come to be known as faith, from which, according to him, it follows that the absence of works does not necessarily entail the absence of faith.

But this is reading into the proposition a meaning not intended by the proponent; and Razi had to admit this, as is clear from the fact that after giving the answer he adds: "This reply gives the lie to the doctrine." Razi was a follower of the Shafi'i school and an ardent supporter of its founder. Nevertheless, being a man of great discernment, he could not but acknowledge that either works had to be regarded as the products, and not an ingredient, of faith or it had to be conceded that one devoid of works was not a *mu'min*.

There is a piece of writing by Abu Hanifah on this subject, the reasoning of which bears testimony to the incisiveness of his intellect, going as it does to the heart of the matter. It was a reply to a letter from 'Uthman Batti, a famous traditionist of the day. The letter,

provoked by rumours about the Imam's ideas, was a friendly inquiry. " People call you a Murji'ite, " 'Uthman had written, "and say that you consider it permissible for a believer to go astray. These imputations have shocked me. Are they true?" The Imam's reply was long. I will content myself with a few excerpts from it. After praising God and the Prophet and thanking 'Uthman for taking a friendly interest in his welfare and reputation, he begins as follows:

"Allow me to remind you that before the Apostle of Allah was assigned his mission the people were polytheists. He preachd to them that there is only one God and asked them to believe in his message. The life and property of anyone who gave up polytheism and adopted Islam became sacred. Then duties were enjoined upon those who had embraced the faith. The performance of these duties was termed '*amal* (action, works). It is to this that God refers in the words: "Those who had faith and performed good deeds; and those who believed in God and acted virtuously." There are several *ayats* of the same kind from which it is clear that the absence of works does not nullify faith, but that the absence of affirmation and belief does. That affirmation and action are two separate things, is also evident from the fact that, while in the matter of affirmation all Muslims are equal, they are graded from the point of view of action; for so far as religion and belief are concerned, they are uniform for all Muslims. God Himself has said: "I have prescribed the same religion for you as I charged Noah with. What I revealed to you and what I charged Abraham, Moses and Jesus with was to preserve the religion and not to be divided in it." You should know that guidance in faith and guidance in works are two different things. You can give the title of *mu'min* to a person who is unaware of duties : such a person is ignorant so far as duties are concerned, but is all the same a believer in respect of affirmation. God Himself has made these distinctions in the Qur'an. Would you equate a person who refuses to acknowledge God and His Apostle with one who, though a believer, is ignorant of practical duties. Where the duties are specified in the Qur'an it is said, "God has started this so that you do not go astray," and, in another place, "If one

goes astray, let another remind him." Again, Moses is reported as saying, "When I did that, I was one of those who stray." In addition to these verses there are many which clinch the matter. In fact, the other verses are even clearer. Did the title of Amir al-M'uminin given to Hadrat 'Umar and Hadrat 'Ali signify that they were the *amirs* of only those who performed their practical duties? Hadrat 'Ali called the people of Syria, who were at war with him, *mu'mins*. Could there be a greater sin than killing? Would you consider both the killers and the kilied to be in the right? If you vindicate one party, namely, Hadrat 'Ali and his supporters, what would you say about the other? Ponder over this and try to understand it.

I assert that all people of the *Qiblah* are *mu'mins* and that none of them becomes an infidel by omission of works. He who has faith and also performs his duties is without doubt a *mu'min* and destined for Paradise. He who is devoid of both faith and works is an infidel and destined for Hell. He who has faith but omits to act is certainly a Muslim, but a sinful one. It is up to God to punish or forgive him."

The way Imam Abu Hanifah proved his thesis cannot be improved upon. What better argument could there be to show that duties and faith are two distinct things than that Islam at the outset preached faith but prescribed no duties? The Qur'anic verses cited by the Imam furnish manifest proof that his contention was correct; for in all the verses *'amal* has been joined to *iman* by a copulative particle, which could not have been done if the former were considered as being a part of the latter. The copulative "*fa*" in the verse "*man yu'min billahi fa ya'mal salihan*" finally settles the issue.

There are certain Qur'anic verses and Traditions on the basis of which this reasoning could be challenged, but they are not enough to prove the contrary. The *hadith* mostly relied upon is the one which says that a *mu'min*, being a *mu'min*, cannot commit fornication or theft; but this way of expression was only a rhetorical device intended for emphasis, just as one may say about a person

that, being a gentleman, he cannot do such and such a thing, which only means that the acts in question do not befit a gentleman. There is no doubt that fornication and theft do not befit a man of faith; and that is all that the *hadith* means; otherwise in Abu Dharr's *hadith* it is clearly stated: "Whoever believes that there is no god but Allah is destined to go to Paradise, even if he is a fornicator and thief."

A second question on which Abu Hanifah expressed himself clearly but has not been correctly understood is as to whether faith can increase or decrease. The Imam is reported to have said: "Faith neither increases nor decreases." There is no doubt that this is a saying of his, but it has been misinterpreted, not only by muhaddithin and Shafi'is, but even by some Hanafis. There can be increase or decrease in faith from two points of view. The first of these is the point of view of quality : from that point of view it may be said that faith can become more or less intense or that, in other words, faith means certainty of belief, of which there are degrees. When Abraham asked God how He brought the dead back to life, God said, "You do not yet believe." Abraham replied, "I do believe, but want satisfaction of mind." In a number of verses God has clearly spoken of increase in faith : one such statement is "Zadathum imanan" (It increased their faith). However, the Imam neither affirms nor denies the proposition in this sense : nor was it a moot point in his time. His assertion that faith neither increases nor decreases was intended in another sense, and in that sense it is correct. Those who regard works as part of faith hold that faith increases and decreases quantitatively : a person particular about works is more faithful than a sinner. The *muhaddithin* clearly make this claim and advance various arguments in support of it. Qastalani writes in his commentary on Bukhari's *Sahih:* "Faith is increased by righteous deeds and decreased by sin." The *muhaddithin* as a class express the same opinion in different contexts. It is in the quantitative sense that Imam Abu Hanifah denies increase or decrease in faith. Since he does not believe works to be a part of faith, he holds that the quantity of works cannot affect the quantity of faith; and this is the correct position. There is a *hadith* that says:

"Abu Bakr enjoys precedence over you people, not because he prays much and fasts much, but because of that which is in his heart."

Thus the Imam does not deny that faith can increase or decrease qualitatively, but that it can increase or decrease quantitatively, and this is a corollary of his assertion that works are not part of faith.

The Imam also maintains that faith does not vary in content and that in respect of beliefs all Muslims are equal; for the articles of faith are the same for all of them The Companions and common Muslims alike believe in divine unity and prophethood : if there is any difference between them it is in the intensity of their belief. The Imam described this, while replying to 'Uthman Batti, in these words: "The dwellers of heaven and earth have the same religion." In support of this he cited the Qur'anic verse: "We have prescribed for you the same religion as Noah was charged with." The Imam's opponents have vehemently accused him of maintaining that his faith was equal to that of Abu Bakr Siddiq. It has not been established authoritatively that he ever made such a claim, but even if he did, it does not matter very much. Who can deny the kind of equality that he claimed? What is surprising, indeed, is that the critics failed to understand a simple thing like this. Khatib Baghdadi has written many pages to repudiate the claim, without appreciating the real significance of it. He has taken umbrage to the mere fact of the Imam's claiming equality for common Muslims with the Companions, having failed to understand that, although the latter were on the whole infinitely superior to the former, there are many points of equality between the two.

Although on all such questions Imam Abu Hanifah had personal opinions of his own, he never branded the opposite opinions as heresies or deviations. Instances of such liberality are rare in Islam after the first century. Nothing has done more harm to Islam than the mutual denunciations of holders of differing opinions. Differences of opinion had, it is true, cropped up as

early as in the time of the Companions. On the question of the Prophet's Ascension, for example, while 'Abd-Allah b. 'Abbas and many other Companions believed that the Prophet had actually seen God, Hadrat 'A'ishah vehemently opposed this. She also refused to believe that the dead had heard the Prophet speak, just as Amir Mu'awiyah denied the Prophet's bodily journey to Heaven. But such differences of opinion in those days did not lead the holders of the opinions to denounce each other as infidels and heretics. A man said to 'Abd-Allah b. 'Umar: "There are some people who misinterpret the Qur'an and call us indfiels. Are they or are they not themselves infidels?" "Nobody can be called an infidel," replied 'Abd-Allah, "until he says that there are two Gods."[2] After the Companions such differences gained in intensity and gave rise to sharply divided factions. There are many questions of belief and law on which no decisive Qur'anic pronouncement is available, such pronouncements as exist being mutually contradictory, which necessitated deduction and the reconciliation of contradictions. This occasioned the exercise of individual judgment, which in turn gave rise to a variety of opinions. Undoubtedly some of these opinions were wrong, but it did not follow from this that they were heresies.

The pity of it was that minds enthused by religious fervour and closed by self-righteousness were unable to tolerate differences of opinion and pitched themselves vehemently against all disagreement. The result was that verdicts of unbelief were bandied about, the care exercised in passing them being in inverse proportion to the religious zeal of those who passed them. Things gradually reached such a pass that every sect took recourse to invented traditions for proving the charge of aberration and deviation against other sects. One of the traditions invented was a prophetic one to the effect that there would arise seventy-three sects in the Muslim *ummah,* of which only one would be destined for Paradise. In order to fulfil the prophecy seventy-three names of sects were fashioned, along with separate traditions in respect of each of them, e.g. "The Qadriyyah are the Magians of this *Ummah.*"

2. Imam Muhammad, *Athar,* p. 65.

This intolerant sectarianism rent asunder the fabric of Muslim society, deforming all its features—religion, morals, government, culture, civilisation. In the midst of this all-pervading destruction there was only one constructive voice, that of Abu Hanifah, declaring aloud: "Of the people of the *Qiblah* there is none whom we consider an infidel." Not much attention was paid to this declaration at the time, but with the passage of time it found increasing credence until it became one of the valuable principles of the science a *kalam*, although it is to be regretted that it was not acted upon very much, so that the din of verdicts of heresy never entirely died down.

The Imam had formed this opinion after much reflection, research and practical experience. He was a contemporary of many famous founders of religious schools and had met almost all of them. The Kharijites had their headquarters at Basrah, which was quite close to the Imam's home town. Wasil b. 'Ata' and 'Amr b. 'Ubaid, founders and propagators of the Mu'tazilah, were natives of Basrah. Then there was Jahm b. Safwan, after whom the Jahmiyyah sect is known. The Imam had met them and acquainted himself with their ideas. Of the sayings attributed to these sects some were mere fabrications, some had been misinterpreted and some were absurd without being heretical. It was because of this that the Imam declared all adherents of the *Qiblah* to be believers. He perceived that all the statements which had aroused a furore and which had become the touchstone of faith were mere verbal quibbles and technical jargon. The most vexed question was that of the eternity of the Qur'an, to which people were attaching almost as much importance as to the declaration of divine unity. Many great religious scholars have said that there were two men who saved Islam during extremely critical times, namely, Abu Bakr Siddiq, who exterminated the apostates of Arabia after the Prophet's death, and Ahmad Hanbal, who during the reign of Mamun al-Rashid persisted in denying the createdness of the Qur'an. In fact, Ahmad Hanbal takes precedence because Abu Bakr had the Companions to support him, while Hanbal was alone.

When somebody is described as reliable and authoritative in books of biography the greatest proof adduced in support of this is that he regarded calling the Qur'an created as unbelief, although this is merely a point of verbal debate. Those who regarded the Qur'an as created and non-eternal had in mind its words and their pronunciation, both of which were articulated by the Prophet and represent the Qur'an to the common people. Those who regarded it as eternal understood it to be the *kalam* (speech) of God in the sense in which speaking is one of His attributes. There are many statements on this question ascribed to Abu Hanifah, all of them based upon this distinction. For example, answering a question put by a man he said that Qur'an was non-eternal, because it was not God, and nothing but God is eternal.[3]

To sum up, statements of this kind, not being based upon the text of the Qur'an, cannot be a criterion of faith or lack of faith. The wisdom of Abu Hanifah consists in this that he prevented the sphere of Islam, whose breadth was described in the words: "Whoever utters the words 'There is no god but Allah' enters Heaven," from being narrowed down. It is a pity that his opinion was not given due weight. Had it received the consideration it deserved, we should not have heard Ghazali, Muhyi al-Din 'Arabi, the Ghauth al-A'zam, Ibn Taimiyyah and Abu Talib Makki described as unbelievers by the *fuqaha*'.

3. Abu Hilal 'Askari, *Kitab al-Awa'il.*

Chapter X

Tradition and Principles of Tradition

It is wrong to say, as some people have done, that Abu Hanifah was not well versed in *Hadith*. The fact nevertheless remains that he is not commonly known as a *muhaddith*. There were hundreds of men in the early generations who distinguished themselves in both original thinking and traditional learning, but whose fame has survived only in their main field of achievement. That Abu Hanifah enjoys no eminence in *Hadith* is quite understandable: he has no work on that subject to his credit. What is surprising is that even Malik and Shafi'i are not known as *muhaddithin* and that their works on *Hadith* have not gained anything like the popularity enjoyed by the six *Sihah*. Ahmad b. Hanbal is better known in *Hadith* than these three, but is less known than they in the sphere of reasoning and personal judgment. Tabari, himself both a *muhaddith* and a *mujtahid*, has not included Ahmad b. Hanbal's name in his list of *mujhtahids*.[1] Qadi 'Abd al-Barr in his *Kitab al-Intiha' fi'l-Thulthalat al-Fuqaha,* which is a biographical dictionary of *mujtahids*, contents himself with mentioning Abu Hanifah, Malik and Shafi'i. Razi writes in the *Manaqib al Shafi'i* : "After Imam Shafi'i no *mujtahid* was at all born." Although many scholars are agreed that Ahmad Hanbal was perfect in *ijtihad,* yet there is no consensus on this.

The fact of the matter is that *mujtahid* and *muhaddith* are two altogether different categories. A *muhaddith* scrutinises all kinds of narrations–sermons, stories sayings about excellences, biographical information. A *mujtahid,* on the other hand, concerns himself mainly with those Traditions from which a rule of law can be deduced. For this reason *mujtahids* cite far fewer Traditions than *muhaddithin*. The *Muwatta'*, in which all the Traditions quoted by Malik have been collected, hardly contains a thousand Traditions, which include also the sayings of the Companions and their Successors. Shafi'i several times admitted to Ahmad Hanbal that *muhaddithin*

1. Hafiz Jalal al-Din Suyuti, *Tabaqat al-Mufassirin*, note on Tabari.

(among whom he evidently included the latter) were better acquainted with Traditions than legal theorists like him. This admission, it should be noted, was made by one about whom Qadi Yahya b. Aktham, the teacher of Tirmidhi, used to say regretfully that if he had paid full attention to *Hadith* he would have made it possible for all other sources of Traditions to be dispensed with.[2] Hafiz Ibn Hajr in his *Tawali al-Ta'sis,* which is a short but useful memoir on Shafi'i, concludes his discussion of Shafi'i's masters with the following words: "He did not meet many *shuyukh* as is the wont of most *Hadith* scholars, as he was preoccupied with *Fiqh*. " The same thing accounted for the small number of Abu Hanifah's *shuyukh*. Unfortunately, some people have stretched this to mean that the Imam is poor in his citation of Traditions. This, however, is not a new idea : it was entertained in the past by some people and still persists. To be Just to those who entertain it, it must be admitted that the commonly known facts about the Imam provide, on a superficial view, a basis for it. Not only has he left no work on *Hadith*, but even in the *Sihah* there is no mention of him except for a tradition or two attributed to him. Especially important is the fact that he is generally known as a thinker, which has created the impression that he did not have much to do with *Hadith*.

It must be admitted that Abu Hanifah's knowledge of military campaigns, stories of notables and biography was limited, but that is equally true of Malik and Shafi'i. However, the denial of the Imam's profound learning and penetration so far as religious commandments and beliefs are concerned is nothing but purblindness. That there is no collection of his writings on *Hadith* and of the Traditions narrated by him does not prove that his knowledge of *Hadith* was poor. There was no Companion who spent more time with the Prophet, whether in company or in privacy, than Abu Bakr Siddiq : nobody could have greater knowledge than he did of the Prophet's sayings and doings. And yet the number of authentic Traditions recorded on his authority in all the books of *Hadith* taken together does not exceed

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seventeen.[3] Can anyone assert that he had only this small number of Traditions to relate? Next to Abu Bakr Siddiq ranks 'Umar Faruq. To him are ascribed only fifty Traditions, of which some are not fully authenticated. Very much the same is the case with 'Uthman and 'Ali. As against these figures, Abu Hurairah is credited with 5346 Traditions, Anas with 2286, 'Abd-Allah b. 'Abbas with 2660, Jabir with 2540 and 'Abd-Allah b. 'Umar, who was only a youth during the Prophet's lifetime, with 2630. If the number of Traditions were the only criterion, we should have to admit in respect of the first four Caliphs that they either had extremely weak memories or were not interested in the Prophet's sayings and doings.

If the authors of the six *Sihah* have cited no more than a few Traditions from Abu Hanifah, the other *imams* of *Fiqh* have suffered the same, if not a worse, fate at their hands. There is, for example, not a single tradition cited in the *Sihah* from Shafi'i, whom great traditionists like Ahmad Hanbal, Ishaq b. Rahwaih, Abu Thaur, Humaidi, Abu Dhur'ah, al-Razi and Abu Hatim acknowledge as a rich repository of Traditions. In fact, Bukhari and Muslim have not cited any tradition from Shafi'i even in their other works. Razi has tried to explain away this indifference on the part of Bukhari and Muslim, but has not been able to advance a single convincing reason. Leave alone the *Sahihs* of Bukhari and Muslim, Tirmidhi, Abu Dawud, Ibn Majah and Nasa'i have cited very few Traditions in the chain of transmission of which Shafi'i's name occurs.

The truth is that the criterion fixed by the *muhaddithin* for judging reliability and correctness of deduction ruled out thinkers and men of vision. Qastalani in his commentary on Bukhari's *Sahih* quotes Bukhari as saying that he had never recorded a tradition narrated by a man who did not declare that faith consisted of both profession and action.[4] If the statement was correctly reported, what

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Bukhari mentions Shafi'i in his *Ta'rikh al-Kabir*, but with an indifference which Razi, curiously enough, regards as something to be thankful for, because it was better than including him among weak transmitters of Traditions. Here is what Razi writes while describing Shaifi'i's good qualities: "Imam Bukhari mentions Imam Shafi'i in the *Ta'rikh al-Kabir* and writes in one of the chapters that Muhammad b. Idris b. 'Abd-Allah Muhammad al-Shafi'i al-Qarashi died in 204 H.; but he does not mention him in the chapter on *Du'afa'* (weak transmitters), although he knew that Shafi'i had narrated many Traditions; if he had been a weak transmitter, Bukhari would have included him in the chapter on weak transmitters."

Somebody asked Ahmad Hanbal his opinion of Auza'i, who was a recognised *mujtahid* and enjoyed the same esteem in Syria as Malik and Shafi'i enjoyed in Arabia and Iraq. He replied, "Weak in tradition and weak in judgment."[5]

The qualities that *mujtahids* may pride themselves on are incisivenes of vision, power of inference, the capacity to identify questions and find answers to them, and skill in deriving commandments. But these are defects in the eyes of a group of traditionists. Abu Ja'far Muhammad b. Jarir Tabari writes in his memoir of Abu Yusuf : "A group of traditionists have refrained from making use of Traditions quoted by him for the reason that he was swayed by his personal opinions and used to draw secondary commandments from commandments already derived. Besides, he was a courtier of the Caliph and a Qadi."[6] If deriving commandments is an offence, then Abu Hanifah was undoubtedly a worse offender than Abu Yusuf.

It is worth considering why Abu Hanifah and his followers were called *ahl al-ra'y* (those who relied upon opinion). In this

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matter many people have accepted a popular notion without due inquiry. Let us, to begin with, try to find out how the title came to be invented and to what class of people it was originally applied. As far as I have been able to ascertain, the first man to be given the title was Rabi'at al-Ra'y, who was a teacher of Malik and a *shaikh* of *Hadith*. "Ra'y" has become a part of his name and is used as such in books of history and dictionaries of names. He was a famous *muhaddith* and *faqih*, who had met many Companions. Dhahabi writes thus about him in the *Mizan al-I'tidal*: "The authors of all the books (i.e. the six *Sihah*) have benefited from his reasoning." 'Abd al-'Aziz Majishun writes : "I have met no man who had more Traditions by heart than Rabi'ah."

At that period and afterwards there were many people who were known *as ahl al-ra'y*. The traditionist Ibn Qutaibah has in his *Kitab al-Ma'arif* a chapter on the *ahl al-ra'y* and under the chapter heading gives the names of Ibn Abi Laila, Abu Hanifah, Rabi'at al-Ra'y, Zufar, Auza'i, Sufyan Thauri; Malik b. Anas, Abu Yusuf, and Muhammad b. al-Hasan. As Ibn Qutaibah died in 276 H., it appears from this that at least until the third century of the *Hijrah* these men were known as *ahl al-ra'y*. With the exception of Zufar they are all traditionists, and especially Malik, Sufyan Thauri and Auza'i are too famous as such to need any commendation.

What really happened was that people engaged in teaching *Hadith* became divided into two groups. One group consisted of those who concerned themselves with collecting Traditions and narrations. These dealt with Traditions simply as narrations, so much so that they did not even distinguish between abrogating and abrogated Traditions. In the second group were men who examined Traditions with a view to deducing from them commandments and decisions. When they could not find a clear text, they took recourse to reasoning by analogy. Although the two groups partially combined the two types of approach, yet they were distinguished by the one which was the more pronounced in their work. Thus the first group came to be known as *ahl al-riwayah* or *ahl al-hadith* and the second as *ahl al-ra'y*. Why Malik, Sufyan

Thauri and Auza'i were called *ahl al-ra'y* was because, side by side with being traditionists, they were original thinkers and founders of schools of law. But since they ranked *inter se* at different levels in the two kinds of pursuit, they were sometimes distinguished by one being called *ahl al-ra'y* and another *ahl al-hadith*, which really meant more of the one or the other in comparison with each other. For example, the title of *mujtahid* or *ahl al-ra'y* suited Abu Hanifah more than it did Malik. Ahmad Hanbal was once asked by Nadar b. Yahya what he had against Abu Hanifah. He replied, "*Ra'y.*" "Does not Imam Malik act upon opinion?" asked Nadar. "Yes, he does," replied Ahmad Hanbal, "but Abu Hanifah relies more upon Opinion." "Then," observed Nadar, "both of them should be blamed according to the degree of their reliance on opinion." Ahmad Hanbal had no answer to this and remained silent.[7]

Before Abu Hanifah *Fiqh* was not a systematised discipline. When he started systematising it he came up against a number of questions on which there was no authentic Tradition, not even a pronouncement by a Companion. He, therefore, had to make use of reasoning by analogy. Not that this had not been done before: even some of the Companions had given rulings by analogy, which subject we shall discuss in detail later on. But in their time the life of the community had not become complex enough for situations to arise which needed judgment by analogy. In his effort to reduce *Fiqh* to a system Abu Hanifah found it necessary to devise rules for analogy along with using it. This underlined in the public mind his association with personal opinion and analogy, which accounts for the fact that in history books the words "*Imam of ahlal-ra'y*" are generally found written along with his name.

There was another reason for the Imam's acquiring fame as an *ahl al-ra'y*. The common run of traditionists made no use of *dirayat* (critical scrutiny) in dealing with Traditions and narrations. Abu Hanifah was the first to do so, and he framed guiding principles and rules for it. He rejected a large number of Traditions for the reason that they did not come up to his critical standards. Since

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7. *'Uqud al-Jumun.*

dirayat and *ra'y* are very close to each other in meaning, almost synonyms, the common people were unable to distinguish between them. This strengthened the Imam's reputation as one who relied upon personal opinion.

After this preliminary discussion let us take up the fundamental question of Abu Hanifah's standing in *Hadith*. To this question are relevant those facts of his scholarly career which are established by authentic accounts. In the first part of this book I have narrated the history of the Imam's study of *Hadith* on the authority of certain books which form the groundwork of the art of biography. Recalling that history, let us consider what can be the standing in *Hadith* of a man who started studying it at the age of twenty, when he had attained full maturity of understanding, and pursued it for a number of years, who learned Traditions from eminent masters of the subject at Kufah, who for years attended *Hadith* classes at Mecca, who was awarded a certificate of high proficiency by the *shaikhs* of Medina, and whose teachers were men like 'Ata' b. Abi Rabah, Nafi' b. 'Umar, Umar b. Dinar, Muharib b. Dithar, A'mash Kufi, Imam Baqir, "Alqamah b. Murthad, Makhul Shami, Auza'i, Muhammad b. Muslim al-Zuhri, Abu Ishaq al-Sabi'i, Sulaiman b. Yasar, 'Abd al-Rahman b. Hurmuz al-A'raj, Mansur al-Mu'tamar, Hisham b. 'Urwah—all of them pillars of *Hadith*, whose narrations have enriched the *Sahihs* of Bukhari and Muslim.

Let us next consider the Imam's disciples[8] Yahya b. Sa'id al-Qattan, an *imam* of the arts of rebuttal and appraisal; 'Abd al-Razzaq b. Humam, upon whose *Jami' al-Kabir* Bukhari has largely drawn; Yazid b. Harun, who was one of Ahmad Hanbal's teachers, Waki' b. al-Jarrah, whom Ahmad Hanbal used to describe as one whose equal he had not met in *isnad* and *riwayat*; 'Abd-Allah b. al-Mubarak, who has been acknowledged as the *amir al-mu'minin* of *Hadith*; and Yahya b. Zakariya' b. Abi Za'idah, whom 'Ali b. al-Madini (Bukhari's teacher) used to call the culminating point of learning. These men were not merely nominally the Imam's disciples, but had sat at his feet for years and were proud of the

8. A detailed account of these is given in an Appendix.

fact. 'Abd-Allah b. al-Mubarak used to say that if God had not helped him through Abu Hanifah and Sufyan Thauri, he would have been just an ordinary man.[9] Waki' and Yahya b. Abi Za'idah had associated for such a long time with the Imam that they were commonly known as "friends or companions of Abu Hanifah". Is it imaginable that men of such rank who were themselves acknowledged masters of *Hadith* and *Riwayat* would bow to an ordinary man?

Apart from these things, the fact of Abu Hanifah's being one of the supreme ***mujtahids*** is one which has never been denied during the last twelve centuries except by two or three persons. The word *mujtahid* has been defined as follows by scholars of *Hadith* like Baghawi, Rafi'i, Nawawi and others thus: "A *mujtahid* is one well versed in the Qur'an, *Hadith*, the early schools of law, lexicology and analogical reasoning, that is to say, one who knows all or practically all Qur'anic passages, established Traditions from the Prophet and sayings of the early generations pertaining to legal problems, has the necessary lexical learning and is acquainted with all the methods of analogical reasoning. If a man is deficient in any of these things, he cannot be called a *mujtahid* and should conform to one or other of the recognised schools of law." [10]

On the basis of this definition Ibn Khaldun, discussing *mujtahids* in the section on *Hadith*, writes: "Some unjust detractors say that some of these ***mujtahids*** were not well up in *Hadith* and that this is why narrations on their authority are few and far between. But this is an erroneous idea, which cannot, in any case, be true of the great *imams*. The ***Shari'ah*** is derived from the Qur'an and the *Hadith* and, therefore, a person poor in *Hadith* ought to try to make up the deficiency so that he can deduce rules of religion from correct principles." Ibn Khaldun writes further: "That Imam Abu Hanifah was one of the great *mujtahids* in the discipline of *Hadith*, is proved by the fact that his school of law enjoys credit among ***muhaddithin*** and is discussed by them, whether by way of

9. *Tahdhib al-Tahdhib*, note on Imam Abu Hanifah.
10. Shah Wali-Allah, *'Iqd al-Jid*.

acceptance or by way of rejection."[11] Ibn Khaldun has also assigned reasons for the fact that the number of Traditions cited on the Imam's authority is small. I propose to deal with this subject at some length.

Many of the *muhaddithin* have acknowledged Abu Hanifah's high standing in *Hadith*. Dhahabi, the most outstanding figure among the traditionists of later periods, wrote a book on *huffaz* of *Hadith* (those who had committed Traditions to memory). He explains in the preface that the book consists of the biographical accounts of the men who were repositories of Prophetic Traditions and whose personal judgment is relied upon in confirming, rejecting, correcting and pruning Traditions. In the book Dhahabi has not included a single man who was not a great expert of *Hadith*. Thus, speaking incidentally of Kharijah b. Zaid b. Thabit, he writes: "I have not mentioned him among those who had Traditions by heart, because there are very few Traditions reported to have been narrated by him." But he writes a note on Abu Hanifah and includes him among the *huffaz* of *Hadith*. What could be a greater acknowledgment of the Imam's status as a *muhaddith*?

Abu'l-Mahasin Dimishqi Shafi'i has entitled one of the chapters of his *'Uqud al-Juman* as follows: "Chapter Twenty-three, showing that he (Abu Hanifah) was rich in Traditions and a leader of *huffaz*." Abu Yusuf, whom Yahya b. Mu'in called a master of *Hadith* and whom Dhahabi lists among his *huffaz*, writes: "We used to discuss legal questions with Imam Abu Hanifah.... After he had expressed a definite opinion, I would go from his class to the *muhaddithin* of Kufah and learn from them Traditions pertaining to the question at issue on the day. Then I would go back to the Imam and repeat the Traditions to him. He used to accept some of them, while about the others he used to say that they were not authentic. If I asked him how he could say that, he would reply 'I know all that is known at Kufah.' "[12]

11. It is surprising that, despite this clarification, some narrow-minded people have tried to prove that the Imam was not well acquainted with *Hadith* on the basis of a parenthetical remark of Ibn Khalidun, which he has made in words that show that he himself was not convinced of the truth of it.

12. *'Uqud al-Juman.*

The testimony given above is enough to prove Abu Hanifah's high standing in *Hadith*. The truth, however, is that the Imam is not what he is because of that. There were many other men who knew Traditions by heart. If he had a few hundred teachers in *Hadith*, there were some *imams* of earlier times who had had thousands. If he had attended the centres of *Hadith* learning in the holy cities, there were many others who had had the same advantage. What distinguished Abu Hanifah among his contemporaries was something else, something of greater importance. That something was critical appraisal of Traditions and grading of them as authorities for rules of law. The discipline of *Hadith* made much progress after Abu Hanifah: Traditions existing pell-mell were collected, the *Sihah* were compiled, and principles of *Hadith* were formulated, which made of it a scientific discipline and on which hundreds of valuable books were written. With the development of the human mind and as an outcome of experience many refinements have since been made. But the examination, appraisal and grading of Traditions have not moved a step beyond the point to which Abu Hanifah advanced them.

To understand the full significance of this achievement it is necessary to examine it in its historical perspective, that is to say, against the background of the beginnings and development of *Hadith*, and especially how the system of narrations came into being and what changes it underwent from period to period.

The system of transmission and narration started during the Prophet's lifetime in a simple and natural manner. The first thirteen years of the Prophet's mission were a time of troubles, during which the Companions were too busy defending their lives to engage in transmitting and narrating Traditions. For that reason there were very few injunctions : nothing was prescribed as a duty except prayer, for more duties would have constituted an insupportable burden. Even the prayers prescribed were small in number and short, viz. the afternoon, evening and night prayers, each consisting of only two *rak'ahs*. The Friday prayer and the two 'Id prayers were not prescribed at all. Fasting was enjoined in 2 H., that is, in

the thirteenth year of the prophetic mission. As to when *Zakat* was laid down as obligatory there is a difference of opinion: one of the opinions, that of Ibn al-Athir, is that it happened in 9 H. The *Hajj* was prescribed in the same year. In short, for a number of years prayer remained the only obligatory duty; there were neither any directions about other duties nor any Traditions about such directions. The Companions did not evince much curiosity about commandments and legal problems. The Qur'an itself had said: "Do not inquire about things, which, if revealed, would not please you." 'Abd-Allah b. 'Abbas used to say: "I have not seen a group of men better than the Companions. During the whole prophetic mission they put questions only about thirteen points, which have all been mentioned in the Qur'an."[13] Similar statements are reported to have been made by certain other Companions.

Even in regard to problems that actually arose narration was not common. The Companions would themselves pose them to the Prophet, so that there was no need for intermediaries to narrate the Prophet's pronouncements. The recording of Traditions was not permitted. There is a Tradition in Muslim's *Sahih* which says: " Do not record anything on my authority except what is in the Qur'an, and if anyone records anything on my authority that is outside the Qur'an, it should be erased." After the Prophet's death the first Caliph, Abu Bakr, had, to begin with, to deal with a general revolt of the Arabs and after that became busy with expeditions against the Roman and Persian Empires, with the result that during his brief reign much could not be done about the propagation of Traditions. 'Umar, although his seven years' reign was a period of internal peace and tranquillity, expressly discouraged the multiplication of Traditions. Dhahabi writes in the *Tabaqat al-Huffaz* that 'Umar, from a fear that narrators might ascribe incorrect Traditions to the Prophet, always used to tell them to narrate as few Traditions as possible.[14] While sending a delegation of Ansar to Kufah, he instructed them as follows: "At Kufah you will meet a group of people who recite the Qur'an in a voice full of emotion.

13. The *Musnad* of Darimi.
14. Dhahabi, *Tabaqat al-Huffaz*, note on the Caliph 'Umar.

On hearing of your arrival they will come to you, eager to listen to Traditions of the Prophet from you. Be careful not to narrate to them too many Traditions."[15] Similarly, when sending a number of Companions to Iraq, 'Umar went part of the way with them to see them off. "Do you know," he asked them, "why I am accompanying you part of the way?" "In order to honour us," they replied. "That is so," said 'Umar, "but there is also another reason. I want to tell you that the people of the country to which you are going are fond of reading the Qur'an. Try not to entangle them in Traditions and narrate very few Traditions from the Prophet." When the Companions arrived at Qurzah, the inhabitants came to see them and requested them to narrate Traditions; but they declined to do so, excusing themselves by saying that they had been forbidden by the Caliph.[16] Abu Hurairah, asked by Abu Salamah whether he used to narrate Traditions as freely in 'Umar's time as he was then doing, replied: "No; for if I had tried, 'Umar would have had me whipped."[17]

During the twenty-one years of the caliphates of 'Uthman and 'Ali the narration of Traditions gained popularity. The Companions had scattered all over the Islamic world, the life of the community was becoming more and more complex and new problems were arising. These factors combined to give free rein to the narration of Traditions. The rebellion that ended the life of 'Uthman divided the community into warring camps, whose hostilities plagued the reign of 'Ali from the very outset. Among the weapons employed in the fratricidal strife were spurious traditions, thousands of which were invented, to be multiplied as time went by. In the introduction to Bukhari's *Sahih* the story is told of what 'Abd-Allah b. 'Abbas said to Bashir 'Adawi, who had come to relate a tradition to him. Finding that 'Abd-Allah was not listening to him attentively, Bashir said: "Ibn 'Abbas, I am relating a tradition from the Apostle of Allah but you are not paying any attention to me." "There was a time," replied 'Abd-Allah, "when as soon as I heard the words

15. *Musnad* of Darimi.
16. Dhahabi, *Tabaqat al-Huffaz*, note on Hadrat 'Umar.
17. Ibid.

'Said the Apostle of Allah' uttered by someone I looked up and gave ear to him. But since people have given up distinguishing between good and bad I listen only to those Traditions of which I have personal knowledge."

Leave alone oral Traditions, forgery started in written ones too. Muslim relates how 'Abd-Allah b. 'Abbas, while copying out a decision of 'Ali, left out several passages here and there, exclaiming, "By God, 'Ali can never have given such a decision." On another occasion 'Abd-Allah b. 'Abbas, shown a piece of writing attributed to 'Ali, deleted the larger part of it

One of the factors that encouraged the fabrication of Traditions was that no system had as yet been devised of narration along with a chain of authorities. Anybody could say, "Said the Apostle of Allah," and merely by making that declaration become exempt from the necessity to prove his authorities. Tirmidhi in the *Kitab al-'Ilal* quotes Imam Ibn Sirin as saying: "In the early days people did not ask for authorities. It was only when discord arose that this began to be done so that Traditions from the orthodox might be accepted and those from the heterodox rejected. But it was not the heterodox and innovators to whom unreliable traditions were confined. The result was that the precaution proved ineffectual, and wrong traditions went on being propagated.

With the advent of the Umayyads the narration of Traditions received a new fillip As the number of Companions dwindled, their value in the public eye increased. Much progress had been made in culture, and the community had been greatly enlarged by the addition of new peoples converted to Islam. Apart from the enthusiasm natural to them as neophytes, there was no better method for these peoples of gaining influence with the conquerors than to distinguish themselves in religious learning. Thus motivated, they soon excelled the Arabs themselves as scholars of Islam. In every nook and corner of the Islamic dominions schools of *Hadith* and *Riwayat* were opened, so that their number ran into thousands.

But the increase in the propagation of Traditions brought with

it a gradual decline in the standard of their correctness and reliability. So large was the circle of narrators that it included people with different habits, different persuasions and different races. Innovators found entry into it and freely spread their heretical ideas. The worst thing of all was that, although more than a century had passed since Traditions had begun to be narrated, no system of recording them had been devised.

These factors led to a piling up of fabricated and wrong traditions to such an extent that when Bukhari at a later period tried to isolate authentic Traditions he selected only 7397 out of hundreds of thousands that were current : this number is further reduced to 2761 after eliminating repetitions.

Hundreds of thousands of traditions were deliberately invented. According to Hammad b. Zaid, the Zanadiqah alone fabricated fourteen thousand.[18] 'Abd al-Karim Wadda' (= fabricated) himself admitted that he had four thousand to his credit. [19] There were quite a few pious worthies who, with good intentions, invented traditions to serve as guides to moral excellences. Zain al-Din 'Iraqi rightly complains: "These traditions did a lot of harm because they were accepted and became current owing to the piety and reputed trustworthiness of their authors."

Next to wilful invention were things like misinterpretation, misunderstanding and careless reporting, which resulted in thousands of imaginary sayings being involuntarily attributed to the Prophet. It was the custom of some traditionists to give an explanation of Traditions along with narrating them; and as they did not clearly mark off the explanatory additions, the listeners were often misled into thinking that they were part of a *hadith marfu'* (i.e. a tradition containing a statement about the Prophet). It is surprising that many leading *imams* of *Hadith* were given to this slipshod practice. About Zuhri, one of Malik's masters and an eminent traditionist, Sakhawi writes: "Similarly, he added explanations of his own to Traditions, but left out the words

18. *Fath al-Mughith*, p. 108.
19. Ibid.

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18. *Fath al-Mughith*, p. 108.
19. Ibid.

indicating that they were explanations." The same was the case with Waki' . He sometimes introduced his explanations with the word *ya'ni* (that is to say), but more often did not do so, thus leaving his listeners in doubt. Numerous other examples of this are mentioned in biographical annals and works on the principles of Tradition.

Another great source of confusion was the habit, indulged in by many leading traditionists, of concealing defects which tended to throw into doubt the continuity of the chain of transmission. This does not exhaust the list of malpractices and slovenly methods to which *Hadith* was subjected : these can be found described in detail in works on *Hadith*.

To sum up, the collection of narrations that passed for traditions in Abu Hanifah's time contained for the most part invented, erroneous, weak and ambiguous narrations. Bukhari and Muslim were not yet there to select sound Traditions from this tangled mass. Abu Hanifah's preoccupation with *Fiqh* did not permit him to undertake this work, but he did the next best thing, which was to devise a system of criticising narrations and lay down rules and regulations for it. His standard of criticism has been considered extremely rigorous, so that the *muhaddithin* have given him the title of *mushaddid fi al-riwayat* (i.e. stringent in narration), and this is one of the reasons, and perhaps the main reason, why of all traditionists he has narrated the smallest number of Traditions. Ibn Khaldun writes: "Why Abu Hanifah has so few Traditions is because he imposed strict conditions on narration and transmission."

The first general idea that the Imam formed about *Hadith* was that there were very few Traditions that were sound or sufficiently well authenticated. This radical idea, as was only to be expected, was vehemently opposed; but he felt compelled to stick to it; and he was fully within his rights in doing so. He had met most of the masters of *Hadith* in his time and profited from what they had to give him; he had for years attended the important schools of *Hadith* in the holy cities; and, finally, he had for a long time studied the

personal characteristics, habits and methods of the narrators at Kufah, Basrah and the holy cities. These things together invested him with the competence to make a personal judgment in the matter.

A cautious attitude to Traditions was in a way inherited by Abu Hanifah, through his masters in *Hadith* and *Fiqh,* from 'Abd-Allah b. Mas'ud, on whose narrations and derivations the Hanafi school of law is by and large founded. For all his greatness as a *muhaddith,* 'Abd-Allah b. Mas'ud has to his credit only a small number of narrations, the reason for which is that he had a very strict standard of acceptance. Dhahabi writes of him: "He was selective and stringent in narration and narrated only (authentic) Traditions." This was also characteristic of Ibrahim Nakha'i, who was 'Abd-Allah b. Mas'ud's pupil and Abu Hanifah's teacher, both at one remove, which was why he was called *Sairafi al-Hadith.* Despite the fact that he had attended various educational institutions, Abu Hanifah's store of knowledge and way of thinking were essentially derived from this line of teachers; and it was, similarly, to its influence that he owed the idea of subjecting Traditions to scrutiny, which his personal experience and peculiar intellectual temperament strengthened.

The idea, although it failed to meet with popular acceptance, did not fail to exert its influence in determining the future development of *Hadith.* Its influence is clearly visible in the principles of personal judgment laid down by Malik and Shafi'i, who came into the field later than Abu Hanifah. The conditions prescribed by Malik for narrations closely resemble Abu Hanifah's, which is why they are often spoken of together as stringent narrators *(mushaddidin fi'l-riwayat).* Ibn al-Salah writes in *Muqaddamah:* "Accordto the ***mushaddidin*** only those narrations are admissible in argument which the narrators have themselves preserved in their memories; and this is quoted from Malik and Abu Hanifah." We have it on the authority of many ***muhaddithin*** that the first version of Malik's ***Muwatta'*** contained 10,000 Traditions, but that on further research he reduced their number to six or seven hundred. Shafi'i

for his part has expressed views similar to those of Abu Hanifah.

Baihaqi quotes the reply given by Shafi'i to Haram Qarashi's request to dictate Traditions proved to go back to the Prophet. "In the opinion of knowledgeable people," said Shafi'i, there are very few authentic Traditions. TheTraditions quoted by Abu Bakr Siddiq from the Prophet do not exceed seventeen in number, while those quoted by 'Umar b. al-Khattab, despite the fact that he survived the Prophet by many years, have not been established to be even fifty. Similar is the case with 'Uthman. As regards 'Ali, although he used to induce people to learn Traditions, yet there are very few Traditions narrated by him. That was because he was not satisfied about the authenticity of any more than those. Most of the Traditions attributed to him pertain to the caliphates of 'Umar and 'Uthman. From the other Companions a large number of Traditions have been narrated, but knowledgeable people do not regard them as established on sound authority."[20]

It should not be concluded from these facts that Abu Hanifah rejected Traditions altogether, as did the Mu'tazilah, or that he accepted only ten to twenty all told. His disciples have quoted hundreds of Traditions from him. In Muhammad's *Muwatta', Kitab al-Athar* and *Kitab al-.Hujaj,* which are in common use as collections of Traditions, there are scores of Traditions quoted from the Imam. However, the Traditions quoted by him as acceptable are smaller in number than those quoted by other *muhaddithin* as such, which is explained by his rigorous standards. Some of the conditions he enforced were the same as are accepted by the generality of *muhaddithin,* while others were exclusive to him or were shared with him only by Malik and a few other *mujtahids.*

One rule belonging to the second of the above categories is that only a Tradition heard by the narrator with his own ears and fully remembered by him up to the time of narration is admissible in argument. This rule looks quite simple and should on the face

20. Razi, *Manaqib al-Shafi.*

of it be acceptable to everyone; but it has farreaching ramifications, which the generality of *muhadditnin* do not agree with. Their objection is that restrictions of this kind unduly limit the scope of Traditions. I do not deny that the objection is valid, but leave it to the reader to judge whether it is better to exercise care in accepting Traditions or to allow them unlimited scope. I will deal with the ramifications and subsidiary issues in some detail to make clear what led Abu Hanifah to prescribe his rigorous conditions.

There was many a master of *Hadith* who used to lecture to assemblies of as many as ten thousand, at which relay-men were posted here and there to repeat the master's words for the people sitting far away from him to hear. Such people heard only the relay-men and not the master himself. The question arises whether they could truthfully claim to have heard the Traditions from the masters himself. Many *Hadith* authorities think that they could, but Abu Hanifah thinks that they could not, and some doctors of *Hadith,* such as Abu Nu'aim, Fadl b. Dakin and Za'id b. Qudamah, agree with him. Ibn Kathir gives this verdict: "The rational view is the one held by Abu Hanifah, but the other view makes for practical convenience."[21]

What dictated caution to Abu Hanifah was the fact that the practice of narrating the meaning of Traditions rather than their actual words was quite common up to his time. This involved the risk of alteration at every stage of transmission; in any case, a Tradition heard through an intermediary could not be as accurate as one heard direct from the narrator himself. Undoubtedly the system of engaging relay-men was unavoidable in large assemblies. Nevertheless, it could not be fair to put on the same level a man who had heard a Tradition directly from a master himself and one who had heard it from an intermediary. The relay-men were often negligent and unintelligent, which increased the risk of misreporting.

An even more careless practice indulged in by some *muhaddithin* was to use the words "akhbarana wa haddathana"

21. *Fath al-Mughith,* P. 118.

(i.e. "they informed us and related to us") in their popular sense. Hasan Basri on many occasions says, "Haddathana Abu Hurairah" (i.e. "Abu Huraira related to us"), although he never met Abu Hurairah. He explained it by saying that when Abu Hurairah narrated such and such Traditions he was present in the city where the narration took place. Similarly, other masters of *Hadith* would use the word "haddathana" in connection with Companions, intending it to convey that the people of the cities where the Companions had narrated the Traditions in question had heard them. The *muhaddith* Bazzar writes that Hasan Basri claimed to have heard Traditions from persons whom he had never met, explaining it by saying that his people had heard the Traditions from those persons.[22] This was a kind of circumlocution which cast doubt on the authenticity of the Traditions; for if the narrator had not heard a Tradition from a master himself he had obviously heard it from some intermediary and, since he had not disclosed the intermediary's name, it was not possible to know whether he was reliable or not, and one could only take it on trust that he was. Abu Hanifah ruled this as an improper practice, and many other authorities on *Hadith* subsequently agreed with him.

Another defective method countenanced was that of narrating fragments of Traditions heard from some master and recorded casually. So much latitude was allowed in this that it was considered permissible to narrate even Traditions of which the narrator remembered neither the words nor the sense. Abu Hanifah, while he allowed this method to be followed, imposed the condition that both the words and the sense must be intact in the narrator's memory. The condition, though it did not meet with general acceptance, was endorsed by Malik and many other authorities, as the *muhaddith* Sakhawi states. It ceased to be of much importance in the time of Bukhari and Muslim, because by then verbatim narration had become the common practice. But in Abu Hanifah's time it was certainly necessary, as the practice then prevailing was for a paraphrase of Traditions to be narrated rather than their actual words, which made it practically impossible for Traditions

22. Ibid., p. 171.

to be transmitted accurately, unless the narrators fully remembered their words, time, context, etc.

Whether giving a paraphrase of a Tradition instead of repeating its actual words is permissible is a controversial question of great importance, and so is the allied question whether a paraphrase is admissible in argument. The questions, though debated from the earliest times, are still undecided. Shafi'i writes: "Some *Tabi'in* heard a *hadith* from several Companions. The sense was one and the same, but the words were different. A Companion whom they consulted expressed the opinion that, since the sense remained unaltered, the variation in the words was immaterial."

Shafi'i does not mention the names of the *Tabi'in*. So it is not possible to judge the credibility or accuracy of the story. Nevertheless, it is an undeniable fact that some Companions did think narration of the meaning of a Tradition to be permissible and that they themselves acted accordingly. As against this, however, some Companions as, for example, 'Abd-Allah b. Mas'ud, insisted on literal faithfulness. Dhahabi writes thus about him in the *Tadhkirat al-Huffaz:* "He was strict in the matter of narration and used to warn his pupils against carelessness in preserving the words intact."

'Abd-Allah b. Mas'ud, whenever he narrated the sense of a Tradition, used these introductory words: "The Prophet said this or something like it or something resembling it or something which was more or less this."

Similarly Abu'l-Darda', after relating a *hadith,* used to say: "This or something like it."[23] Probably it was the same kind of caution which made the Caliph 'Umar forbid the narrating of Traditions: he must have realised how difficult it was to remember the words and what a big risk of alternations was involved in permitting the transmission of the sense only.

The question was not settled one way or the other even after

23. Ibid.

the time of the Companions. The Successors were divided into two groups on it, the founder of Abu Hanifah's line of teachers belonging to the one that permitted the paraphrasing of Traditions. In course of time this became the unanimous view. Thus in books on the *usul* (roots or principles) of *Hadith* transmission of the sense of Traditions is described as a commonly recognised method. Of the *mujtahids* only Malik is opposed to it. Although a group of traditionists, including Muslim, Qasim b. Muhammad, Muhammad b. Sirin, Rija' b. Hayat, Abu Zar'ah, Salim b. Abi al-Ja'd and 'Abd al-Malik b. 'Umar, adhered to verbatim narration, yet the generality of them subscribed to the permissibility of paraphrase; indeed, with their fondness for profusion in narrating Traditions they could not do otherwise.

There is no doubt that many Successors, and even many Companions, narrated Traditions in paraphrase, so that, if the restriction imposed on this were to be enforced, there would be hardly anything left from which to deduce directions and rules of law. At the same time, it must be admitted that retaining the original form of a Tradition in a paraphrase is next to impossible. Connoisseurs of the finer points of language know that no two words are completely identical in meaning and that even so-called synonyms differ from each other in some shade of meaning or other. No paraphrase can, therefore, be a perfect substitute for the original words. Even so, synonyms could serve to retain or reproduce something of the original sense of a Tradition. But supporters of paraphrastic narration go so far in their liberality that they do not insist even on synonyms. No one could better understand than the Companions the Prophet's way of using words. Themselves masters of language, they had the opportunity, because of constant association with the Prophet, of studying his manner of speaking, his favourite turns of phrase and the senses in which he used different words. Notwithstanding this, books of Tradition provide many instances of failure on their part to convey his intention with accuracy.

Ibn Majah quotes Abu Musa Ash'ari as narrating the following

Tradition from the Prophet: "When a dead man is mourned in these words, he is tortured (in his grave)." Somebody is said to have told the Lady 'A'ishah that Ibn 'Umar used to relate this Tradition and 'A'ishah, it is reported, commented as follows: "I do not say that Ibn 'Umar lied, but he was certainly mistaken. What really happened was this. A Jewess died, and her relations mourned her. The Prophet, hearing of this, remarked, 'Her relations are weeping for her and she is being punished in her grave.' " According to a variant of this tradition, 'A'ishah recited the Qur'anic *ayat*: "No one will be punished for others' sins," by which she intended to convey that a person could not be answerable for another person's acts, so that, if the relations of the dead Jewess mourned, it was no fault of hers and she was not punishable for it. The point involved is this that, while the Prophet had simply mentioned as a fact that the Jewess was being punished, the transmitter ascribed the fact to her relations' mourning by adding the words: "The dead are punished for the wailing of the living."[24]

Similarly, there is a Tradition that during the Battle of Badr the Prophet, standing over a well, spoke the words: "Have you found the promise of your Lord to be true?" The people around him remarked: "You speak to the dead!" He replied, "What I said they have heard." But when the incident was related in this way to Hadrat 'A'ishah, she said that the words actually spoken by the Prophet were: "These people have got to know that what I invited them to is right." What a difference there is between the two utterances and what different implications they have for the question whether the dead can hear!

If Companions could commit errors of this kind, it can well be imagined what must have happened when people of the second or third generation narrated Traditions. It is interesting that supporters of paraphrastic narration have listed a number of instances of words which, according to them, can be interchanged without affecting the sense at all; but these so-called synonyms do not stand close examination, for they clearly differ from each other

24. Abu Ja'fa. Jarir Tabari, *Ta'rikh Kabir*, p. 1332.

in meaning. To quote one example, the 'raditionist Sakhawi says that the words *"uqtalu'l-aswadain al-hayyata wa'l-aqraba"* (i.e. "kill two black things, namely, the snake and the scorpion"), occurring in a *hadith* could well be replaced by the words "*amara bi-qatlihima*" (i.e. "he ordered their killing") without affecting the sense. But there is an obvious difference between *"uqtilu"* and *"amara bi'l-qatl"*

Appreciating the difficulties described above, Abu Hanifah adopted a middle course. As regards Traditions paraphrastically narrated before his time and already current among traditionists, there was no choice but to accept them; for, otherwise, practically the whole corpus of Traditions would become useless. The Imam, therefore, accepted them, but imposed the condition that the transmitters were jurists, that is to say, people who could understand the meaning and implications of the words. This no doubt left room for alteration of the sense, but saved the paraphrastic narrations from being rendered null and void, since, as the majority of traditionists have clearly stated, the credibility of Traditions is to be determined by the degree of probability and, therefore, in the absence of any cogent reason for rejecting them altogether, paraphrastic narrations could be made use of in legal inferences. The Imam declared even those paraphrastically narrated traditions as acceptable whose transmitters were reliable, even if not jurists; but he assigned a lower rank to them and considered a closer scrutiny necessary in their case. The other *imams* agreed with this approach. The *Alfiyyat al-Hadith* lays down: "Literal narration is necessary for one who does not well understand the words argued about; but opinions vary as regards one who does; the majority agrees that the latter is not restricted to the actual words." But Abu Hanifah confined this latitude to Companions and Successors, and Tahawi quotes him, on an unbroken chain of authorities, as saying that only those Traditions should be narrated which the narrator remembers as fully at the time of narration as he did immediately after he had heard them.[25] Mulla 'Ali Qari, after citing this quotation, opines that Abu Hanifah considered narrating the sense of Traditions permissible.

25. Mulla 'Ali Qari, *Sharh Musnad Imam A'zam*, p. 3.

Malik and some other traditionists agreed with Abu Hanifah in imposing this restriction. "It has been said," states the *Fath al-Mughith*, "that paraphrastic narration of Traditions is not at all permissible. A group of traditionists, jurists and followers of Shafi'i principles holds this view, and according to Qurtubi this is, really speaking, the view of Imam Malik too." But the common run of traditionists could not be expected to subscribe to it, and so a large number of them opposed it, describing Abu Hanifah as "stringent in narration". However, it is only fair to concede that the restriction was really necessary. According to a Tradition, the Prophet himself said: "May God prosper the man who conveys what he has heard from me exactly as he heard it." No argument can overrule this saying of the Prophet. It is possible that this Tradition had not come to the knowledge of those Companions who thought verbatim transmission unnecessary. Those Companions about whom it is established that they had heard it, including 'Abd-Allah b. 'Abbas, who is its transmitter, adhered to verbatim transmission. The Tradition had become commonly known by Abu Hanifah's time, and there was no reason for him not to act upon it.

Abu Hanifah's greatest achievement in the field of Tradition lay in the formulation and practical application of the principles of rational criticism (*dirayat*). The work done by our scholars in one branch of Tradition, namely, narration, has no parallel in the history of learning, but it is regrettable that they did not pay much attention to elaborating a system of scientific criticism. We have it from Ibn Hajar that some books were written on the subject, but they are so scarce and unknown as to be virtually non-existent. The principles of *Hadith* have been developed into a regular discipline and big books have been written on them, but these contain very little about the principles of criticism, although these principles constitute an essential counterpart to narration. It goes to the signal credit of Abu Hanifah that at a time when even the rudiments of criticism did not exist he discovered subtle points of the kind mentioned above. One meets with isolated glimmerings of the principles of criticism in the history of *Hadith* during the period of the

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Companions, and it was these which showed Abu Hanifah the way; but they got lost to the public view in the crowd of general religious problems.

The soundness or unsoundness of narrations does not always depend exclusively upon the trustworthiness or untrustworthiness of their transmitters. It often happens that, although all the transmitters in a chain of cited authorities are reliable, the incident narrated is not on the face of it believable. There are hundreds of examples of this in *Hadith*. It is, therefore, necessary that Traditions should be appraised, not on the basis of their transmitters alone, but in the light of the principles of rational criticism.

Dirayat (rational criticism) involves the judging of events described in Traditions with reference to the facts of human nature, the peculiarities of the time, the circumstances of the persons to whom the events are ascribed and the common laws of probability. If a Tradition does not stand up to any of these criteria, its genuineness must be considered doubtful or, in other words, it should be considered as probable that the facts have been altered in the course of transmission. Ibn Jauzi, a high-ranking *muhaddith*, thus lays down the broad principles of *dirayat* : "If you find a Tradition to be contrary to reason or to the principles of transmission, you may dismiss it as a fabrication and need not inquire into the trustworthiness of its transmitters. Similarly, you may regard as a fabrication any Tradition which is falsified by common perception and observation, or which is repugnant to the Qur'an, to a *hadith mutawatir* (i.e. a tradition supported by too many persons to be doubted) or to *ijma' qata'i* (i.e. a conclusive consensus of competent opinion) and does not admit of *ta'wil* (allegorical interpretation), or in which there is a threat of severe punishment for a minor sin or promise of a great reward for a small good deed. Narrations by preachers and street-corner orators abound in traditions of this sort."[26]

I reproduce below some of the principles of *dirayat* formulated by Abu Hanifah.

26. Ibn Jauzi quoted in *Fath al-Mughith*.

(1) A tradition contrary to reason is not worthy of credence.[27] This is a principle to which Ibn Jauzi gives precedence over all other principles of criticism. By his time Islamic learning had reached its zenith and philosophical ideas were in the air. But in Abu Hanifah's time it was anathema to talk of reason in connection with religion. When he first framed this principle and applied it to Traditions, he was severely criticised. His refusal to accept Traditions on the ground that they referred to impossible events shocked the common people, for whom the only touchstone of correctness and credibility was the personality of the narrator. The principle was in due course incorporated in the principles of *Hadith*, but transmitters seldom acted upon it, with the result that scores of hyperbolic and fantastic traditions are now part of the popular store of knowledge.

There is a tradition that, while reciting the Surah of Najm, the Prophet uttered the words: "These idols are very venerable and their intercession (with God) may be hoped for," which words, the tradition says, were put into the Prophet's mouth by Satan, with the result that, after he had finished reciting the *surah* Gabriel appeared to him and inquired where he had got them from, because he (Gabriel) had not communicated them to him. This tradition was declared wrong by some *muhaddithin*, such as Qadi 'Iyad and Abu Bakr Baihaqi, in accordance with Abu Hanifah's principle, but a large body of *muhaddithin* still accepts it. There was no one more distinguished among the *muhaddithin* of later ages than Ibn Hajar : even he forcefully supports the tradition, saying that, since its transmitters are reliable, it cannot be rejected. Then there is the tradition about a prayer by the Prophet having made the sun arise immediately after it had set because 'Ali had missed his evening prayer. The *muhaddith* Ibn Jauzi was daring enough to call this tradition a fabrication, but he was violently opposed by Ibn Hajar and Jalal al-Din Suyuti. Abu Hanifah was opposed even more violently when he rejected this and similar traditions, but that did not deter him. It should, however, be remembered that the Imam did not use the word "reason" in the broad sense in which it is

27. Ibn Khaldun, in his *Muqqadamah*, attributes this to Abu Hanifah.

understood by educated people today and in which sense it devastates many fundamental religious beliefs.

(2) A tradition purporting to be from the Prophet which is about common facts of daily experience, but which does not rank above *akhbar al-ahad* (i.e. single-authority reports), is suspect. The rationale of this principle is that, since in regard to events experienced by the common people in their daily lives the people at large needed the Prophet's guidance, the fact that the tradition is confined to a single transmitter or one or two transmitters militates against its authenticity.

Most commentators have stated that Abu Hanifah rejected traditions which were repugnant to reasoning by analogy. This statement is not entirely unfounded, but many people have misunderstood it, as a result of which a lot of misconceptions have arisen about the Imam among literalist scholars. These people, without fully considering the Imam's intentions, have formed the opinion that he accorded precedence to analogy over Tradition. But all his recorded sayings rebut this opinion. There are many instances in which he completely abandoned analogy in favour of Tradition on questions of law. Muhammad b. al-Hasan, discussing the question whether loud laughter vitiates *wudu* (ritual ablution), argues on behalf of Abu Hanifah and says: "Analogy is that which is asserted by the doctors of Medina, but where a Tradition is available, analogy is of no account and the Tradition must be followed." Nothing could be clearer than this. The author of the *'Uqud al Juman* auotes, from different sources, several statements of the Imam to the effect that he never admitted analogy in preference to Tradition. The conversation between him and Ja'far Sadiq that we have quoted earlier also endorses this.

In view of these clarifications some of the critics have made the modified and more specific claim that the Imam rejected Traditions which were contradictory to clear analogical deductions *(qiyas-i-jali)*. 'Abd al-Karim Shahrastani, speaking of Abu Hanifah and his disciples among Men of Opinion *(ashab al-raly)* says:

"These people prefer a clear analogy to single-authority report *(akhbar al-ahad)."* Razi in his *Manaqib al-Shafi'i* makes a similar statement several times, using it as an argument for ranking Shafi'i above Abu Hanifah.

Despite much endeavour I have been unable to find a clear statement by Abu Hanifah on the relative merits of Tradition and analogy. Nor have those who aver that he preferred analogy to Tradition been able to adduce any statement by him in support of that claim. No doubt the rule that a Tradition whose transmitters are not reliable and which is in every way contrary to analogy is not a fit basis for argument has been mentioned among the Hanafi principles of jurisprudence, but it is not one of the principles unanimously accepted by Hanafi jurists. While 'Isa b. Iban and his followers accept it, Abu'l-Hasan Karkhi and others explicitly reject it; and yet the author of the *Mussallam al-Thubut* gives it special prominence. What is surpassingly strange is that the rule is attributed to Abu Hanifah without any proof of his authorship of it. The biggest piece of evidence adduced to justify this attribution is the Hanafi stand on the question of the sale of dry milch animals. It has been sought to be proved that on this question the Imam preferred analogy to a clear Tradition.[28] Those who make the attribution do not seem to know that the stand was based on the personal opinion of certain Hanafi *'ulama'* and not on that of the Imam. Razi has cautiously avoided mentioning Abu Hanifah and has only mentioned "the Campanions of Abu Hanifah" in this connection, but I do not think that even so he was sufficiently cautious; for the opinion was held by some, and not all, Hanafi scholars and so the generalisation implied in his description was not justified.

The correct position is that Abu Hanifah rejected the tradition about the sale of dry milch animals not because he thought it contrary to analogy, but because he claimed that it had been abrogated. Tahawi has dealt with this in great detail in his *Ma'ani*

28. It is surprising that even eminent *'ulama'* like Ghazali and Razi have levelled this charge against Abu Hanifah, adducing as a case in point the tradition about dry milch animals.

al-Athar. After describing the creed of Abu Hanifah and Muhammad, he writes: "These people believed that what had been related on this subject from the Apostle of Allah had been abrogated."

I do not propose to expatiate on the subject, and content myself with pointing out that the Imam rejected the tradition in question because he considered it abrogated and not because of his partiality to analogy. What is necessary is to ascertain carefully whether the statements ascribed to him are proved to have been made by him. Later scholars did that, and so must we. When we do that, we find that all these accusations about Abu Hanifah's preferring analogy to Tradition are baseless.

On the contrary, it is clearly established by pronouncements proved on good authority to have been made by Abu Hanifah that he attached no importance to analogy *vis-a-vis* Tradition. Muhammad, making the point that if a man fasting in Ramadan eats something by mistake his fast is not broken and it does not become obligatory for him to make up for it, argues from Traditions on the point and says that in cases where Traditions exist opinion is of no account. He goes on to quote Abu Hanifah as saying: "If there were no Traditions on the point, I would order making up for the error." It is a different matter that Abu Hanifah's conditions about the proof of Traditions are very exacting. Unlecs those conditions were fulfilled by a *Hadith* he did not consider it valid; and if they were fulfilled, he paid no heed to analogy.

As far as I have been able to ascertain, Abu Hanifah never preferred juristic analogy to Tradition. It is, however, to be remembered that the word *qiyas* (analogy) was used in a very wide sence in his day : in that wide sense he kept *qiyas* out of his consideration of Traditions. There were two schools of thought in Islam from the very beginning in regard to rules of law. According to one, rules of law were not based upon expediency or rational considerations, from which it followed that right and wrong were not rational concepts. The other school held that rules of law were all based upon expediency, which in the case of some was evident

and had been indicated in the pronouncements of the Lawgiver, while in the case of others it was implicit, though we might not be aware of it. This bifurcation produced two different kinds of effects on Tradition. Some people on hearing a Tradition inquired only whether or not the transmitters were reliable. If they were, they accepted the Tradition without demur. Others, who believed in the rightness and wrongness of legal orders, inquired further whether the rules of conduct or beliefs deducible from the Tradition were or were not rational and useful. If they were not, they scrutinised the Tradition further still to find out if the transmitters had the requisite intelligence and critical power, whether the narration was verbatim or paraphrastic, what was the occasion for the Tradition, who were the people to whom it was addressed, what were the circumstances and other relevant factors. This line of inquiry generally revealed the truth.

The examination of Traditions in this manner started as early as the time of the Companions. Ibn Majah and Tirmidhi in their *Sahihs* relate an exchange of remarks between Abu Hurairah and 'Abd-Allah b. 'Abbas about a Tradition of the Prophet which said: "Use of a thing changed by fire voids ablution." (The opinion of some *mujtahids* that when meat is eaten it becomes necessary to perform a fresh ablution is based on this pronouncement.) Abu Hurairah narrated the Tradition. On hearing it 'Abd-Allah b. 'Abbas, who was in the audience, observed: "On this basis even the use of hot water makes a fresh ablution necessary." "Nephew," reported Abu Hurairah, "when you hear a Tradition from the Prophet you should not bring in analogies." 'Abd-Allah b. 'Abbas, however, adhered to his opinion. The objection made by 'A'ishah to Ibn 'Umar's narration of the Tradition concerning the dead being punished for the wailing of the living proceeded from a similar approach. Several other examples of this are to be found in the annals of the Companions, which, however, need not be cited here.

Such then was the practice of Abu Hanifah, which has been misrepresented by being described as *qiyas*. This is not the place for a detailed discussion of the proposition that rules of law are based on expediency. It has, in fact, been discussed so ably and

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thoroughly in Shah Wali-Allah's incomparable *Hujjat Allah al-Balighah* that there is no room left for anyone else to say anything further about it. Suffice it to mention that those scholars of Islam who were masters of both the speculative and factual disciplines *('ulum-i-'aqli wa naqli),* such as Ghazali, 'Izz al-Din 'Abd al-Salam and Shah Wali-Allah, adopted an attitude of inquiry similar to Abu Hanifah's. Abu Hanifah for his part considered it essential to examine Traditions in the light of rational probability and, whenever confronted with two mutually contradictory Traditions, preferred the one which stood the examination.

There are several Traditions which Abu Hanifah hesitates to accept because they fail to satisfy the criterion of rational probability; and he assigns as a reason for this what is called in his terminology an *'illat-i-khufyah* (i.e. a hidden weakness or motive). Traditionists distinguish one kind of *Hadith* to which they give the name of *mu'allal,* defining it as a *Hadith* which, though it apparently fulfils all the conditions of soundness, is not admissble in argument; and they take much pride in identifying Traditions of this kind, claiming this to be a rare kind of intuition or inspiration. 'Ali b. al-Madini, one of Bukhari's teachers and a famous *muhaddith,* says: "This is inspiration, and if you ask one endowed with it why he calls a particular Tradition *mu'allal* he will not be able to advance any reason."[29]

The *muhaddith* Abu Hatim, asked his opinion about a number of Traditions, described some *mudraj* (interpolated), some *sahih* (sound or correct). "How do you know this?" asked the questioner. "Did the transmitters confide it to you?" "No," replied Abu Hatim, "this is all my intuition." "So you claim occult knowledge," remarked the questioner." "Ask other experts; if they agree with me, you will perhaps be satisfied." The man was satisfied when Abu Dhar'ah, whom he consulted, confirmed Abu Hatim's opinion.[30]

Some *muhaddithin* say that this intuition is something which is given to *imams* of *Hadith* unsolicited and which they cannot reject-

29. *Fath al-Mughith*, p. 98.
30. Ibid.

a kind of psychological phenomenon from which there is no escape for them. This statement is true. Constant application creates in them a special talent or acumen which enables them to judge at once whether a saying attributed to the Prophet can or cannot be his. Similarly, faithful observance of the directions of the *Shari'ah* and diligent study of their meaning and purpose endows one with the power to distinguish whether or not a particular direction was given by the Prophet. The exploring of these meanings and purposes is, however, not the task of the *muhaddith,* but that of the *mujtahid.* Naturally enough, the Zahirites objected to Abu Hanifah's characterising some Traditions as *mu'allal* for recondite reasons and suspected him of rejecting Traditions in the light of reason and personal opinion. If by applying themselves merely to the textual study of narratives traditionists can develop a flair which enables them to reject Traditions apparently fulfilling all the conditions of soundness, there is no reason to think that a man who has dived deep into the intents and purposes of legal directions cannot acquire a similar gift of discernment. Of course, rejecting Traditions on the basis of personal judgment is a sensitive and highly responsible task that can be accomplished only by one who is a very great scholar, traditionist and original thinker and endowed by God with special gifts. Who could combine these qualities in himself better than Abu Hanifah did?

The most valuable contribution made by Abu Hanifah to *Hadith* is the grading of Traditions and the derivation of legal directions from them in accordance with it. The primary source of legal directions is the Qur'an which nobody calls in question. Next to the Qur'an is *Hadith.* Between the two there is no essential difference, the one being *wahi matlu* (written revelation) and the other *wahi ghair matlu* (unwritten revelation), but there is a difference between them in regard to proof. If a Tradition is definitively and unchallengeably proved to be as authentic as the Qur'an is, it ranks with the Qur'an as a source of law. Traditions, however, vary in respect of degree of proof, and this variation must be taken into account in deducing legal directions from them. The classification of Traditions by traditionists into *sahih* (sound

or correct), *hasan* (beautiful), *da'if* (weak), *mashhur* (well-known), *'aziz* (restrictedly disseminated), *gharib* (rare), etc., is deficient in this that it does not grade them as sources of legal orders; it is only *da'if* Traditions that they regard as unreliable, ranking all the other kinds as equally admissible in argument. Nor was it necessary for them to do such grading, since deduction of legal orders and directions was no part of their task. But Abu Hanifah was called upon to undertake it as a pioneer in the systematisation of *Fiqh*. He accordingly divided Traditions from the point of view of proof into the following three grades.

(1) Mutawatir, i.e. a Tradition whose narrators at every stage of its transmission were too numerous for any room being left for the possibility that a lie became established by continual repetition; or, in other words, a Tradition initially heard from the Prophet by innumerable persons and transmitted by a succession of innumerable persons down to the last narrator.

(2) Mashhur, i.e. a Tradition whose narrators, at all stages other than the first, are as numerous as in the case of a *mutawatir* Tradition.

(3) Ahad, i.e. a Tradition which is neither *mutawatir* nor *mashhur.*

So graded, Traditions have, in Abu Hanifah's opinion, different bearings on legal directions. A rule of law derived from a *mutawatir* Tradition is mandatory and fundamental. One derived from a *mashhur* Tradition is not mandatory but can further define an absolute command of the Qur'an and thus supplement it. An *ahad* Tradition, since its authenticity is only presumptive, does not in any way affect a clear direction given in a Qur'anic text. Obvious as this distinction is, it is surprising that Shafi'i and some other traditionists do not agree with it. Baihaqi and some others describe a number of debates said to have taken place between Shafi'i and Muhammad b. al-Hasan, in which, according to them, the latter was defeated. I believe that these debates are purely imaginary, unsupported as they are by any reliable evidence. Nevertheless,

they prove that the distinction just described can be rightly attributed to Abu Hanifah.

The strongest criticism levelled against the distinction is that Abu Hanifah and his disciples were themselves unable to observe it consistently. Shah Wali-Allah, in the *Hujjat-Allah al-Balighah,* relates a dialogue on this subject between Shafi'i and Muhammad. "Is it your opinion," asked Shafi'i, 'that a *khabar-i-wahid* (single-person report) cannot supplement the Qur'an?". "Yes, it is," replied Muhammad. "The Qur'an," said Shafi'i, "permits a will in favour of an heir. Why then do you consider it impermissible on the basis of a Tradition?"

Shah Wali-Allah has probably quoted this story from Baihaqi's *Manaqib al-Shafi'i,* which is full of fictitious stories of this kind. The fact is that, according to the Hanafis, the Qur'anic dictum about wills in favour of heirs was not repealed by a Tradition, but by another verse of the Qur'an itself, to wit, the one about appointment of heirs. This view, it may be added, is not confined to the Hanafis, but is held by all exegetes except a few.

Many other controversial issues have been raised on this subject, which I refrain from discussing. I will, however, deal in some detail with the controversy raging round single-person reports and their effect on Islamic beliefs, since it is mainly on this aspect of the matter that some *muhaddithin* disagree with Abu Hanifah.

The majority of masters of *Hadith* regard single-person reports as of doubtful authenticity. The dissenting group is led by Ibn al-Salah, but even he does not recognise all varieties of single-person reports as definitive. He classifies Traditions into the following seven kinds:

(i) those on which Bukhari and Muslim agree,

(ii) those accepted by Bukhari alone,

(iii) those accepted by Muslim alone,

(iv) those quoted by neither Bukhari nor Muslim, but satisfying the conditions prescribed by them,

(v) those satisfying only Bukhari's conditions,

(vi) those satisfying only Muslim's conditions, and

(vii) those satisfying neither Bukhari's nor Muslim's conditions, but accepted by other traditionists.

Of these Ibn al-Salah characterises the first kind as definitive, saying: "This kind is absolutely correct and all theoretical knowledge has to be in accord with it." As regards Traditions quoted by either Bukhari or Muslim alone, he includes them in the same category except for those invalidated by Daraqutni and others. Although Ibn al-Salah's view has found acceptance, especially in recent times, among superficial students, there is no doubt that it is fallacious and illogical; and *imams* of *Hadith* are averse to it. Thus Nawawi, after quoting Ibn al-Salah, in his commentary on Muslim's *Sahih*, writes: "What the *Shaikh* (i.e. Ibn al-Salah) says in this context is contrary to the view of the majority of authorities, which is that those Traditions of the *Sahihain* which do not attain to the rank of *tawatur* are only of presumptive validity, since they are single-person reports, and it is an established rule that single-person reports at most create a presumption of truth. In this matter Bukhari, Muslim and all others are on the same footing." Ibn al-Salah's view has been rejected by other doctors of Tradition also; but instead of taking their opinion on trust, let us ourselves examine whether single-person reports create certainty or only a presumption of truth.

When a *muhaddith,* no matter what his standing, says that a Tradition is *sahih* (correct or sound), he implies certain subsidiary statements, to wit, that, the Tradition is *muttasil* (having an unbroken chain of transmitters), that its transmitters are reliable and possessed of exact minds, that there is no lacuna in the transmission and that the Tradition is free from all damaging weaknesses. All these are matters of presumption and individual judgment, falling short of certainty. Just as a jurist may deduce a point of law from the Qur'an

or *Hadith* and think that he has made a correct deduction; of which, however, there is no guarantee, since his premises are merely his own suppositions, so may a traditionist. In calling a Tradition sound a traditionist relies upon his presumptions and individual judgment. If a traditionist or a number of traditionists claim a tradition to be sound and another traditionist does not recognise it as such, all that the latter is guilty of is being opposed to the other traditionist's or traditionists' principles of verification, rules of deduction, and chain of transmission—in short, their suppositions and judgments.

The rules of verification and criticism fixed by traditionists for the judging of the soundness of Traditions are all rules for the exercise of personal judgment and discretion, which is why they vary greatly from one traditionist or group of traditionists to another. Literalists regard *Hadith* as a narrative and factual and not rational and speculative branch of learning. But anyone who has pondered over the principles of *Hadith* can easily detect the fallacy in this way of thinking. It is at this that Abu Hanifah hints in the following dictum: "This is a matter in which we have our own opinion and do not rely upon a single-narrator report, nor do we say that it is obligatory for everyone to accept it." Some people have erroneously limited this broad statement to *Fiqh,* being presumably unaware of the fact that a *mujtahid* is concerned less with points of law than with their sources.

It is because the principles of *Hadith* are indeterminate and discretionary that traditionists differ about the soundness or unsoundness of particular Traditions. A Tradition declared by one traditionist to be absolutely sound, authentic and obligatory may be dismissed by another as weak or even invented. The *muhaddith* Ibn Jauzi, for example, has included in his list of weak Traditions a number of Traditions recognised by other *muhaddithin* as sound and beautiful *(hasan),* going to the length of not sparing even some Traditions contained in the *Sahihs.* Sakhawi thus comments on this: "Ibn Jauzi has put down as weak even some *hasan* and *sahih* Traditions included in the *Sahihs* of Bukhari and Muslim, not to

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The first essential condition for a *marfu'* Tradition is that it should be proved to go back to the Prophet without any missing link; but most of the recognised methods of proving this unbroken continuity are merely discretionary. Some people consider as *marfu'* such expressions of the Companions as "This is a *sunnah,*" "Thus were we ordered," "From this were we prohibited," "This is what we used to do in the time of the Apostle of Allah," "We did not consider this wrong." Some people have even gone so far as to prefix the words "Thus spoke the Apostle of Allah" to Traditions containing any of the above expressions, while narrating them, notwithstanding the fact that the expressions do not provide any positive proof of the claim, but indicate that the Traditions are based upon the judgment or understanding of the narrators. "The understanding of a Companion is no arguments," says one of the generally accepted principles of *Hadith,* and on the basis of it some scholars maintain that expressions of the kind in question are not enough to prove that the Traditions of which they form part are *muttasil* and *marfu'*. Shafi'i, Ibn Hazm, Zahiri, Abu Bakr, Razi and other scholars do not recognise a statement by a Companion that a particular action is a Prophetic *Sunnah* as a *marfu' hadith.* In books of biography and Tradition there are scores of instances in which some Companion or other is reported as having made this statement in respect of what was only his own deduction or conjecture and not a Prophetic Tradition, but what most traditionists nevertheless describe as a *marfu' 'hadith.* Following these traditionists many narrators characterised Traditions of this kind in clear terms as *marfu',* thus causing a good deal of confusion. In *mu'an'an* Traditions (i.e. Traditions in which the transmitters are connected only by the preposition *'an* or "from," e.g. "A from B," without a statement as to whether the transmission

was direct) it is very difficult to prove uninterrupted transmission, and there are plenty of Traditions of this kind. Bukhari maintains that if it is proved that the transmitter and the recipient of a *mu'an'an* Tradition were contemporaries and had met each other, then the Tradition is to be considered as *muttasil.* But Muslim, although he was a pupil of Bukhari's and generally followed his principles, vehemently opposed the condition that the transmitter and the recipient should have met each other and thought it enough for them to have been contemporaries.[31] Thus, according to Bukhari's ruling, all those *mu'an'an* Traditions of Muslim whose transmitters and recipients are not proved to have met each other are *maqtu'* (with a broken chain of transmission), although Muslim regards them as *muttasil* and insists so much on this that he does not stop short of using strong language about those who oppose it. Leaving aside Muslim's liberalised criterion, even the stricter conditions prescribed by Bukhari for *mu'an'an* Traditions do not provide anything more than a presumptive proof of continuity of transmission. From the fact that the transmitter and the recipient were contemporaries and met each other it does not necessarily follow that communication between them was always personal and immediate. Where the words *haddathana wa akhbarana* (this was narrated and reported to us) are present direct personal communication is, of course, proved; but where these words are not present and only the expression *'an* (A from B) has been used, there is a strong probability, but no certainty, of transmission without a gap. In books of *Hadith* and biography one comes across scores of instances in which two persons who were contemporaries and even associated with each other made some communications to each other through intermediaries. Nor are instances of this wanting in daily life.

The most important problem is that of the appraisal of personalities. The validity of single-person reports hinges upon the dependability of their reporters. But judging the character of individuals is a matter of opinion in which there can be no definiteness and finality. A man may be regarded by many people

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The *Mizan al-I'tidal* contains the names of hundreds, or rather thousands, of transmitters in the invalidation *(jarh)* and rectification *(ta'dil)*, i.e. criticism, of whose narrations there are wide divergences, as was only to be expected. Acquaintance with the habits and characteristics of a man which may determine the quality of his narrations can be acquired only after long association with him. It was not possible for the people engaged in invalidating and rectifying Tradltions to acquire a sufficiently intimate acquaintance with the thousands of men who had narrated them. They had, therefore, to rely largely on conjectures, appearances, reputations and hearsay, which seldom, if ever, enabled them to make any definitive assessments. It is true that the traditionists have framed a set of working rules for handling this task, but the rules are discretionary and have not been unanimously agreed upon. In fact, the traditionists themselves occasionally find it necessary to depart from them. Generally speaking, invalidation is given precedence over rectification, but there are a number of transmitters in respect of whom this priority is not observed. There are detailed invalidating criticisms of Muhammad b. Bashshar al-Misri, Ahmad b. Salih Misri and 'Ikrimah Maula b. 'Abbas, but these are not reliable. This divergence of views between those engaged in invalidation and those engaged in rectification is surprising in view of the fact that both classes of men are generally experts. Here, for example, are a few widely differing opinions about Jabir Ja'fi of Kufah, a well-known transmitter, who claimed to have learnt by

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This does not mean that the art of *jarh* and *ta'dil* is unreliable, but it does show that the media and methods employed in recording facts about personalities were such as can at best warrant a presumption or probability of truth, falling far short of certainty.

What remains to be discussed is the question of the communication of meaning. A Tradition may be *muttasil* according to the criteria agreed upon by all *muhaddithin* and *mujtahidin*, its transmitters may all be reliable, and there may be no lacuna in it; and yet the manner in which the narrator has communicated its meaning may be open to question. Has he, for instance, taken into account the circumstances and the occasion, and has he made no mistake in understanding and conveying the sense of the Tradition? These questiores acquire an added importance from the fact that, as is commonly admitted, many Traditions have been transmitted paraphrastically. This, indeed, was the only ground on which Traditions were rejected in the time of the Companions, who were all evidently reliable and in whose case there was no probability of a gap in transmission. An incident relevant to this is related in the chapter on *Tayammum* in Muslim's *Sahih*. A man asked the Caliph 'Umar what he should do about his prayer if, needing a bath, he could get no water for it. 'Umar advised him not to offer his prayer. The Companion 'Ammar, who happened to be present, narrated a Tradition from the Prophet on this question and reminded 'Umar that he was present when the Prophet gave his ruling. "Have the fear of God, O 'Ammar," remarked 'Umar. Obviously 'Umar did not imply that 'Ammar had related a false Tradition, but only that

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there was a possibility of his conveying the meaning of the Prophet's words wrongly. So 'Ammar said: "If you do not like me to relate this Tradition, I shall never do so any more." I have discussed the subject of single-person reports at such length only because it is the main ground on which *muhaddithin* attack Abu Hanifah, although his stand on it was the result of much research and reflection.

The uncertainties and variances of judgment dealt with above are not met with in regard to *mutawatir* and *mashhur* Traditions, but are peculiar to single-person reports, and account for the great difference of opinion about the latter. While the *Mu'tazilah* refused to recognise them at all, some *muhaddithin* went to the opposite extreme of declaring them to be definitive, subject only to the condition that their transmitters were reliable and there was in them no breach of continuity, no lacuna and no weakness.

A third group of *muhaddithin* as a matter of principle regarded single-person reports to be debatable, but overlooked this in applying them to detailed legal questions and problems of belief. Abu Hanifah adopted a middle course, testifying to the fairness of his judgment and incisiveness of understanding. He neither rejected single-person reports outright like the Mu'tazilah nor accepted them as definitive like the superficial literalists. His stand was similar to that of some great Companions. 'Umar, 'A'ishah and 'Abd-Allah b. Mas'ud on serveral occasions hesitated to recognise single-person reports, because they did not regard them as definitive. When Fatimah b. Qais related to 'Umar the Prophet's Tradition: "No house and no maintenance for her," he said: "We cannot depart from Allah's Book on a report by a woman about which we do not know whether it is true or false." In *Fiqh* there are many rules derived from this dictum. There is, for example, the rule that a single-person report is not enough to establish as a *fard* (an absolute duty) a legal direction based upon it, for that requires conclusive proof of the truth of the report. It is, however, conceded that such a report may raise a strong presumption and thus prove a legal direction derived from it to be *wajib* (obligatory), *masnun*

(recommended, but not essential) or *mustahabb* (approved). It is on this basis that while Shafi'i considers reading the *Surat al-Fatihah* in prayers as *fard,* Abu Hanifah considers it as *wajib.* There are many other deductions of a similar nature made from the principle under discussion.

The principle plays an even more important role in *kalam* than in *Fiqh* and it was its application by Abu Hanifah to the former that mainly accounted for the widespread hostility to him. On the basis of it he laid down that no single-person report could prevail against a belief held by all Muslims. For example, the innocence of all prophets is axiomatic with every Muslim. Therefore, according to Abu Hanifah, any Tradition to the effect that a prophet committed a major sin was unworthy of credence. Thus the principle provides a way out of many difficulties created by heretics, but unfortunately most traditionists, far from appreciating it, opposed it. 'Abd al-Barr, a renowned traditionist, writes thus in his *Kitab al-Kuna*: "In regard to single-person reports Imam Abu Hanifah maintained that, if they were repugnant to universally held beliefs, they were not acceptable. Traditionists oppoced this, carrying their opposition beyond bounds."[32]

The practical difference between the approaches of the *muhaddithin* and Abu Hanifah to Traditions contrary to universally accepted propositions lay in this that the former, taking the correctness of the Traditions for granted, tried to make them acceptable by means of circumlocutory interpretation, often hardly plausible, while the latter tended to hold that, since the Traditions were not *mutawatir* and *mashhur,* there was a likelihood of a mistake or inadvertence on the part of the transmitters, which made their validity doubtful. The difference is well illustrated in the following passage quoted from Fakhr al-Din Razi's *Tafsir Kabir*: "I told a man that the Tradition which says that Abraham told a lie thrice was not correct since, if accepted, it would prove Abraham to have been a liar. The man said that the transmitter of the Tradition was reliable and could not be regarded as a liar. I replied that the

32. Quoted by Abu'l-Mahasin, *'Uqud al-Juman.*

Tradition, if accepted, would prove Abraham to have been a liar and, if rejected, prove the transmitter to have been a liar, adding that preference had obviously to be given to Abraham." Razi here followed the rule laid down by Abu Hanifah inasmuch as he held that, since the innocence and truthfulness of prophets was a universally accepted proposition, a single-authority report could not overrule it. Deplorably enough, the traditionist Qastalani, to name a leading representative of a group, after quoting this passage in his commentary on Bukhari's *Sahih,* adds the rider: "As the transmitter is reliable, the Tradition has to be accepted."

Following the same rule, Abu Hanifah maintains that the words "In the name of Allah, the Beneficent, the Merciful" occurring at the beginning of every *surah* of the Qur'an are not part of the Qur'anic text. Shafi'i and some *muhaddithin* disagree with this, adducing certain Traditions in support of their view. Abu Hanifah's reply to this is that the Qur'an is proved by *tawatur,* and not by single-authority reports, and that only that is Qur'an which is proved by *tawatur.* Similarly, according to Abu Hanifah's rule, Traditions ascribing to 'Abd-Allah b: Mas'ud denial of the *ma'udhatain* (the last two *surahs* of the Qur'an, in which God's refuge is sought against evil) are not worthy of credence. Ibn Hajar, on the other hand, accepts these Traditions, recommending that they should be so interpreted as to become acceptable. But what interpretation of this kind is possible? Either one has to admit that the two *surahs* are not *mutawatir* or so lower the standard of *tawatur* that even the knowledge of the Prophet's Companions does not remain a necessary condition of it. Abu Hanifah's rule makes Islam's circle as large as it should be, while the opposite approach narrows it down to an infinitesimal point. For example, it is accepted by everybody that one who believes in divine unity and the apostleship of the founder of Islam is a Muslim according to the Qur'an; and this cannot be overruled by Traditions which are not definitive and in which a ruling of unbelief has been given on extraneous grounds. This was the reason why Abu Hanifah never stigmatised the Mu'tazilah, the Qadriyyah, the Jahmiyyah and similar sects as unbelievers and never accepted Traditions of the kind which assert

that of Islam's seventy-two sects only one is destined for Paradise. But many literalminded scholars accorded such a high status to Traditions of this kind that on their basis they gave verdicts of unbelief against people *ad libitum,* sometimes merely because of dress or personal appearance. Even the followers of Abu Hanifah in later times lost sight of the valuable rule enunciated by him and invented thousands of grounds for denouncing people as infidels, with which books of *Fiqh* are replete.

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Chapter XI

Fiqh

Although the Islamic *'ulum,* such as Exegesis, Tradition, Jurisprudence and Military Science, came into existence simultaneously with the advent of Islam, yet it was not until they became regular disciplines that they were associated with particular individuals. Their compilation and systematisation took place in the second century of the Islamic era, and those who accomplished this task came to be known as their founders. Thus, Abu Hanifah was rightly acknowledged as the founder of *Fiqh* in the same way as Aristotle was called the founder of Logic. It was his contribution to *Fiqh* that constituted his real lifework. I, therefore, propose to discuss it in detail, but think it necessary, before doing so, to make a brief survey of the development of *Fiqh*—when and how it began and where it stood when Abu Hanifah took it up.

Shah Wali-Allah has related the history of *Fiqh* in a fine essay, a summary of which will suffice my purpose. Legal directions, he writes, were not graded during the Prophet's lifetime. If he preformed *wudu* (ablution) in the presence of Companions, he did not tell them whether it was a *rukn* (a principle) or *wajib* (obligatory) or *mustahabb* (desirable). The Companions contented themselves with imitating him. The same was the case with *salat* (ritual prayer): the Companions performed it exactly as the Prophet did, without inquiring what in it was *fard* (an imperative duty) and what *wajib* (obligatory). "I know of no group of people," says Ibn 'Abbas, "better (i.e. more intelligent) than the Companions of the Apostle of Allah, but during his long association with him they posed to him no more than thirteen legal problems, all of which are dealt with in the Qur'an." It was only about extra-ordinary occurrences that people sought rulings from the Prophet. It sometimes also happened that the Prophet on his own initiative expressed approval or disapproval of things done by people. The rulings and opinions were given mostly in public and recorded by someone or other present.

With the territorial expansion and cultural development that took place after the Prophet's death new situations arose so thick and fast that it became necessary to deduce specific rules and detailed directions from the broad principles that had earlier proved adequate. For example, if a person inadvertently omitted some part of the ritual of prayer, the question arose as to whether his prayer was valid or not. Now, it was not practicable to declare as imperative every one of the actions constituting prayer. Therefore, the Companions had to divide the actions into different grades, such as *fard, wajib, masnun* and *mustahabb.* Differences of opinion, however, arose among them in regard to the criteria to be adopted for this grading. Similar differences arose on many other questions, some of which had not emerged or even been conceived of during the Prophet's lifetime. In deciding such questions the Companions had to take recourse to deduction, analogy and conjecture, in which they followed different methods. All this resulted in a body of divergent rules aud decisions as early as during the period of the Companions.

Among those of the Companions who were acclaimed as *mujtahids* and *faqihs* for their work in deducing rules of law there were four leading figures, namely, the Caliphs 'Umar and 'Ali, 'Abd-Allah b. Mas'ud and 'Abd-Allah b. 'Abbas. 'Ali and 'Abd-Allah b. Mas'ud resided mostly at Kufah, which thanks to them became a seat of *Fiqh* learning, just as the two holy cities had done earlier owing to the presence of 'Umar and 'Abd-Allah b. 'Abbas.

'Ali, having been brought up under the Prophet's tutelage, had had more opportunities than anyone else of observing his actions and hearing his utterances. On somebody asking him why he related more Traditions than any other Companion, he said: "The Prophet used to tell me things whether I questioned him or not." Besides, he was gifted with intelligence and percipience of an order rare even among the Companions and acknowledged by them all. 'Umar is reported to have said: "God forbid that we should ever be confronted with a difficulty without 'All being there." 'Abd-Allah b. 'Abbas, himself a *mujtahid,* used to say: "When 'Ali

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gives a ruling on a point, what more do you need?"

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The mantle of 'Alqamah and Aswad fell after their death on Ibrahim Nakha'i, who made a considerable contribution to *Fiqh*, earning thereby the title of *"Faqih al-'Iraq"* (the *Faqih* of Iraq). In *Hadith* his standing is shown by the title of *"Sairafi al- Hadith"*

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In Ibrahim Nakha'i's time a short collection of *Fiqh* rulings was compiled, the sources of which were Prophetic Traditions and the *fatwas* of 'Ali and 'Abd-Allah b. Mas'ud. This was not a systematic compilation, but Ibrahim Nakha'i's pupils committed its contents to memory. The largest stock of these was in the possession of Hammad, who was one of Ibrahim's leading pupils and who succeeded him in the *Fiqh* chair. As mentioned earlier, Hammad died in 120 H. and was succeeded by Abu Hanifah

Although the accepted rules of *Fiqh* had been collected by Abu Hanifah's time, they existed for the most part in the shape of oral Traditions and had not been systematised into a regular discipline. There were no methods of reasoning, no rules for the derivation of orders, no grading of Traditions and no principles of analogical deduction. In short, *Fiqh* was still a congeries of unco-ordinated dicta and rulings that had a long way to go before becoming a system.

History throws no light on what in particular induced Abu Hanifah to take up the systematisation of *Fiqh*. The author of the *Qala'id 'Uqud al-'Iqyan* quotes a story in this connection from the *Anmudhaj al-Qital*. Two men went to a *hammam* and before going in for their bath deposited something with the keeper for safe custody. The one who came out earlier took the thing from the keeper and went away. Later the other man, after finishing his bath, demanded the thing and was told by the keeper that his companion had taken it away. He filed a suit against the keeper in the court of the *Qadi,* who decided against the keeper on the ground that, as the thing had been entrusted to him jointly by the two

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bathers, it was incumbent on him to return it to them jointly. The keeper came to Abu Hanifah, who advised him to tell the plaintiff that he would let him have the thing, provided he came together with his companion to take it. This incident, the author of the *Anmudhaj al-Qital* suggests, was what made Abu Hanifah decide to take up the compilation and systematisation of *Fiqh*. It is possible that the incident did take place, but the real incentive lay elsewhere. It is a historically established fact that Abu Hanifah turned to the systematisation of *Fiqh* around 120 H., that is to say, the year in which Hammad died. By that time Islamic culture had spread to distant lands, and a multitude of situations connected with religious performances and secular affairs had arisen which could not be dealt with without a legal code. Besides, contact with other peoples over the vast Islamic domains had developed education to such an extent that it was no longer feasible to carry on with oral narration of Traditions and citation of authorities. It was but natural for people to think of integrating scattered rulings and directions into a regular code.

Abu Hanifah was endowed with an original mind and an extraordinary flair for law. Besides, his extensive experience of trade and public affairs had acquainted him with the legal requirements of the society of his day. The hundreds of legal inquiries he received daily from all parts of the Islamic world made him realise how badly a system of jurisprudence was needed, and this realisation was strengthened by the errors he found judicial officers committing in deciding cases. These then were the factors which decided him to undertake the compilation and systematisation of laws, although it is possible that some incident of the kind just described provided an additional impetus.

It was a gigantic and hazardous project that Abu Hanifah ventured upon. Realising this, he decided not to base it entirely upon his personal knowledge and thinking. Accordingly, he selected as his assistants some eminent scholars from among his pupils acknowledged as masters in the branches of learning specially relevant to jurisprudence. For example, Yahya b. Abi Za'idah,

Hafs b. Ghiyath, Qadi Abu Yusuf, Dawud al-Ta'i, Habban and Mundil, who were finished scholars of *Hadith* and *Athar;* Zufar, who was renowned for his logical prowess; and Qasim b. Ma'n and Muhammad, who were accomplished in literature and Arabic learning. Abu Hanifah formed a board consisting of these men and entrusted to it the work of compiling laws. According to a *muttasil* tradition from Asad b. Furat quoted by Tahawi, those of Abu Hanifah's pupils who assisted him numbered forty, the most distinguished of them being Abu Yusuf, Zufar, Dawud al-Ta'i, Asad b. 'Umar, Asad b. Khalid al-Tamimi and Yahya b. Abi Za'idah. Tahawi adds that the scribe was Yahya, who rendered service as such for thirty years.While it is true that the work took more or less thirty years, that is to say, from 121 H. to 150 H., the year of Abu Hanifah's death, it is not true that Yahya was associated with it from the very beginning. Yahya was born in 120 H. and could not conceivably have begun to participate in the work when he was an infant. In addition to the members of the compilation board named by Tahawi there were 'Afiyah Azadi, Abu 'Ali 'Azzi, 'Ali Mushir, Qasim b. Ma'n, Habban and Mundil.

The compilation was done by free discussion. If all members of the board were agreed on a point taken up, their agreed opinion was recorded there and then. Otherwise the point was fully thrashed out, which sometimes took a long time. Abu Hanifah would listen to the discussion and, after summing it up, conclude it with his own opinion. His opinion was generally so balanced that it was accepted by all the others. When, however, a unanimous conclusion could not be arrived at, the various opinions expressed were all recorded. No conclusion was ever recorded unless all the members of the board were present and reached it unanimously.

The author of the *Jawahir-i-Mudiyyah* states in his biographical note on 'Afiyah b. Yazid, on the authority of Ishaq, that, if on any occasion 'Afiyah was ate in coming, the Imam would wait for him and would order the decision on the point at issue to be recorded only after he had come and expressed his concurrence. In this way the work of compilation was completed in thirty years, including

the last years of the Imam's life which were spent in prison.

As described by Abu'l-Mahasin, the contents of the compilation were divided into chapters on various subjects in the following order: *Taharat* (purity), *Salat* (prayer), *Saum* (fasting), *'Ibadat* (rites of worship), *Mu'amalat* (seculars matter), and *Mirath* (inheritance).

The compilation gained, during the Imam's lifetime, a popularity difficult to conceive of in the circumstances of the time. As soon as its various parts were ready one after another they were published throughout the Islamic world. The Imam's school, thanks to the compilation, became a veritable law college whose alumni were appointed in large numbers to judicial and administrative posts, in which they used it as their *vade mecum*. What is particularly interesting is that even people who claimed to be Abu Hanifah's equals could not do without it. Sufyan Thauri very cleverly obtained a copy of one part, namely, the *Kitab al-Rahn* (the manual on mortgage) and always used to keep it handy. Za'idah relates that one day, seeing a book near Sufyan's pillow, which he was reading, he looked at it with his permission and found it to be Abu Hanifah's *Kitab al-Rahn*. "You read Abu Hanifah's books!" he exclaimed with surprise. "I wish I had all of them," replied Sufyan.[1]

It is no less surprising that, although there were many people at that time who claimed to be authorities on law and some of whom were hostile to Abu Hanifah, not one of them dared to criticise the compilation. Razi writes thus in the *Manaqib al-Shafi'i*: "At the time when the *Ashab al-Ra'y* (followers of opinion, to wit, Abu Hanifah and his pupils) published their opinions and conclusions the world was full of *muhaddithin* and narrators of Traditions, but not one of them proved capable of objecting to the things that they said." I have, however, come across one exception to this generalisation. Baihaqi says that Auza'i wrote a refutation of Abu Hanifah's *Kitab al-Siyar* to which Abu Yusuf wrote a counter refutation.

It would seem that the compilation was a voluminous one,

1. *'Uqud al-Juman.*

comprising thousands of *masa'il* (legal propositions). The author of the *Qala'id 'Uqud al-Iqyan* states on the authority of the *Kitab al-Siyanah* that the number the *masa'il* compiled exceeded 12,90,000. Shams al-A'immah Kurdari puts the figure at 6,00,000. Neither of these figures may be accurate. Nevertheless, there is no doubt that the figure was not less than a few hundred thousands, as can be verified from the surviving books of Imam Muhammad.

Although there can be no doubt that all the chapters of the *Fiqh* compilation were completed during Abu Hanifah's lifetime—there is undeniable proof of this in books of biography and history—yet, unfortunately, the compilation has been irretrievably lost and there is no copy of it in any library of the world. Razi clinches this by saying in the *Manaqib al-Shafi'i*: "No work of Abu Hanifah's is extant." As Razi died in 606 H., this means that Abu Hanifah's works disappeared at least six centuries ago. This is nothing surprising in the history of Muslim learning. None of the thousands of books written in Abu Hanifah's age has survived the ravages of time. For example, the works of Auza'i, Ibn Juraij, Ibn 'Arubah and Hammad b. Abu Ma'mar were published about the same time as Abu Hanifah's compendium, but not even the names of these works are known today. There is, however, a special reason for the disappearance of Abu Hanifah's writings. Despite the fact that Abu Hanifah's compendium was well arranged, it was superseded in popular use by the derivative writings of Abu Yusuf and Muhammad, which presented the legal questions dealt with by Abu Hanifah in a more perspicuous and detailed manner and with elaborate annotations. A parallel case is that of Farra', Kisa'i Khalil, Akhfash and Abu 'Ubaidah, originators and first systematisers of grammar, whose works were superseded by those of later grammarians and completely vanished. What survives of the contribution of Abu Hanifah to *Fiqh* is embodied in the writings of Muhammad and Abu Yusuf, brief accounts of whom will be found in the Appendix. In fact, what is known as the Hanafi *Fiqh* is a collection of the opinions of four men, namely, Abu Hanifah, Zufar, Abu Yusuf and Muhammad. Abu Yusuf and Muhammad differ with Abu Hanifah on many points, but, according to many

Hanafi jurists as, for example, Shami, they admitted that the dissident opinions expressed by them were those of Abu Hanifah himself, since in many matters he expressed different opinions in different contexts. This is, however, difficult to substantiate and was probably dictated by partiality to Abu Hanifah. Abu Yusuf and Muhammad were themselves acknowledged *mujtahids* and had every right to differ with their master. Islam's progress took place only so long as people openly expressed their disagreement with the older masters, uninhibited by the reverence they had for them.

The legal system known as the Hanafi *Fiqh* spread rapidly over the whole of the Islamic world except Arabia, where it could not gain much currency because of the presence of Malik at Mecca and of other *imams* at Medina. It became the main legal system of the whole territory extending from Sind to Asia Minor and the sole legal system of India, Sind, Kabul, Bukhara and neighbouring lands. As regards other countries, in some of them it remained current side by side with the Shafi'i and Hanbali systems, while in others it was supplanted by them after remaining current for some time. There were special reasons for the latter event. In Africa, for example, after remaining the main legal system until 406 H., it was supplanted by the Maliki system owing to the patronage of the latter by the government of Mu'izz b. Badis.[2]

One special factor responsible for the dominance of the Hanafi *Fiqh* is that most rulers of Islamic countries followed it. The Abbasid Caliphs, however, were exceptions to this. As long as the rule of their dynasty lasted, they were lords of the pen as well as the sword or, in other words, considered themselves *mujtahids* in their own right and refused to conform to any system. After the decline of their dynasty they were no longer in a position either to exert any influence in this sphere or to maintain their independent attitude. Even so, if any of them conformed to any system, it was to that of Abu Hanifah. 'Abd-Allah b. al-Mu'tizz, founder of the art of *Badi'* and the greatest of Abbasid poets and litterateurs, followed the Hanafi *madhhab*.[3]

2. Ibn Khallikan, *Ta'rikh*, on Bin Badis.
3. Ibid., on 'Abd Allah b. Mu'tizz.

The dynasties that rose to power with the decline of the Abbasids mostly adhered to the Hanafi system. The Seljukians, who ruled for a long time and whose dominions extended from Kashghar to Jerusalem and from Constantinople to the shore of the Caspian Sea, were of the Hanafi persuasion. Mahmud Ghaznawi, whose name is a household word in India, was a great scholar of Hanafi *Fiqh*. There is extant a book by him on the subject entitled *al-Tafrid*, containing about sixty thousand *masa'il*. Nur al-Din Zangi, one of the heroes of Islamic history, who distinguished himself in the holy war at Jerusalem before Salah al-Din, one of his servants, conquered it, and who established the first college of *Hadith*, was, like others in his dynasty, a Hanafite, although he respected the Shafi'i and Maliki systems too. Salah al-Din was a Shafi'ite, but there were many Hanafis in his family.[4] About al-Malik al-Mu'azzam 'Isa b. al-Malik al-'Adil, ruler of a vast territory, Ibn Khallikan writes: "He was highminded, learned, wise, brave and dignified and profoundly dedicated to the Hanafi *madhhab*." The Circassians of Egypt, who established their rule at the beginning of the ninth century of the Islamic era and ruled for 148 years, were Hanafites and patrons of the Hanafi *madhhab*. The Turkish Sultans, who have been ruling over Turkey for the last six centuries and whose empire is today the only symbol of Islam's power and prestige, have most of them been Hanafis. In India itself the Pathan kings and the House of Timur were of the same persuasion and no other system could gain currency in their vast domains.

Some people think that the popularity of the Hanafi *madhhab* has been due to State patronage. Ibn Hazm, famous *imam* of literalist scholars, writes: "There were two *madhhabs* which gained currency with governmental support. The first of these was Abu Hanifah's *madhhab*, which flourished because Abu Yusuf during his term of office as the Chief Qadi appointed only Hanafites to judicial posts. The second was Imam Malik's *madhhab*, which made headway in Spain, thanks to the patronage of Imam Malik's disciple, Yahya Asmudi, who was so close to the Caliph that all appointments to

4. *Al-Jawahir al-Mudiyyah*, on Nur al-Din Zangi.

judicial posts were made on his recommendation and who got only followers of his *madhhab* appointed."[5] But this is a superficial view. Abu Hanifah acquired the status of a *mujtahid* in 120 H., while Abu Yusuf was appointed to the post of Chief Qadi in 170 H., the year of the accession of Harun al-Rashid, during whose reign he attained to eminence. During the interval of fifty years Abu Hanifah's *madhhab* had already gained wide popularity and hundreds of his pupils had been appointed as *qadis*. To whom is this success to be attributed? There is no denying that Abu Hanifah's legal opinions gained added popularity because of Abu Yusuf, but they owed to Abu Hanifah's own efforts the popular acclaim they originally enjoyed. Razi admits this despite his opposition to Abu Hanifah. "The *madhhab* of the adherents of opinion gained strength and fame and public esteem. Later, when Abu Yusuf and Muhammad were admitted to Harun al-Rashid's court, it gained further strength from the combination of learning and political power."

Apart from this, Abu Yusuf's influence was confined to the reign of Harun al-Rashid. Who then was responsible for the long-enduring and continued success of the Hanafi legal system? It is true that some other *imams* attained to eminence during their lifetime For example, Auza'i became the unchallenged *imam* of Syria during his lifetime and remained so for a time after his death, so that in that region it was mainly his *madhhab* that was followed. But his influence was limited and shortlived. It is clear from these facts that Abu Hanifah's *madhhab* has some qualities which other *madhhabs* do not have.

There are only four *imams* whose systems of jurisprudence gained wide currency in the Islamic world, namely: Abu Hanifah, Malik, Shafi'i and Ahmad Hanbal. Although the popularity of these systems is accounted for by their own goodness, yet there is no doubt that the personal influence and importance of their founders had also much to do with it . It is my opinion that the popularity of the systems other than that of Abu Hanifah was largely the out come of the personal advantages enjoyed by their founders. Thus,

5. Quoted by Ibn Khallikan in his note on Yahya Asmudi.

Malik was a native of Medina, which, having been the centre of the Prophetic Mission and the capital of the early Caliphs, still had a halo of glory around it. He came of a family of learned men, his grandfather, Malik b. Abi 'Amir, having learnt Traditions from prominent Companions and his paternal uncle having been a *shaikh* of *Hadith*. His accomplishment in *Hadith* and *Fiqh* was thus a gloss upon his legacy of scholarship. The two together won wide fame for him.

Shafi'i had even greater personal advantages. A native of Mecca, he was a Quraishi and Muttalibi on the father's side and a Hashimi on the mother's. His family had been distinguished for generations. His great-grandfather, Sa'ib, had been the standard-bearer of the Hashimis at the Battle of Badr and, having been taken prisoner, had embraced Islam. Nothing could be a better means of gaining popularity and public esteem than this combination.

Abu Hanifah enjoyed no advantage of this kind. Far from being a Quraishi and a Hashimi, he was not even an Arab, and none of his ancestors had occupied a position of leadership among the Muslims. Born of a family of traders, he was himself a trader all his life long. His birthplace, Kufah, although a seat of learning, did not rank as such with Mecca and Medina. Added to these was the hostility of a group of traditionists which he unavoidably incurred. In short, he possessed none of the natural means of winning popularity and public acclaim. That, despite this, his system of jurisprudence gained wider currency in the Islamic world than any other system, is a sure proof of the fact that it suited human needs, and especially the needs of a culturally advancing Muslim society, better than the other systems. It is significant that the other systems were adopted mostly in those countries which had not made much progress in culture. Explaining why Malik's system gained dominance in the Maghrib and Spain, Ibn Khaldun writes: "The inhabitants of the Maghrib and Spain were still at the stage of Bedouin primitivism and had not yet made the same progress as the people of Iraq had made. That was why no *Fiqh* other than that of Imam Malik made headway there."

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The Hanafi system of jurisprudence, which comprises the legal doctrines and enunciations, not only of Abu Hanifah, but also of his prominent disciples, was a great system and, in fact, a great code of laws for its time. In later times Hanafi scholars added much to it, not only by way of elaborating details, but also by way of formulating principles; nevertheless, no greater progress could have been made by any system of jurisprudence or, for that matter, by any discipline in its initial stages than that which the Hanafi system made during Abu Hanifah's lifetime. It included, not only laws relating to ritual duties, but also civil, criminal, penal and revenue laws, laws governing evidence contracts, inheritance and wills, and laws relating to many other matters. Its comprehensiveness and usefulness can be gauged from the fact that it was in force throughout the empire of Harun al-Rashid, which stretched from Sind to Asia Minor.

The Hanafi code, known as *Fiqh,* deals with two broad categories of legal subjects, which invest its author with two distinct capacities, viz. (*i*) rules deduced from the *Shari'ah,* which may be described as canon law, and (*ii*) rules relating to matters on which the *Shari'ah* is silent and which are thrown up by the development of social life or to matters referred to in the *Shari'ah* but not legislated upon canonically. In relation to the first category of rules the *faqih* is a commentator and expounder, and the qualifications he needs in that capacity are command of language, knowledge of texts, power of deduction, ability to rectify inconsistencies and skill in appraising arguments. In relation to the second category of rules he is a lawgiver and must possess gifts comparable with those of the world's famous lawgivers. These two capacities are quite distinct from each other. In Islam there have been many renowned exegetes and commentators upon the Qur'an and the *Hadith* who had no ability to frame laws. Similarly, there have been great lawmakers who had no talent for explaining texts of the *Shari'ah.* I know of no other man—whether *mujtahid* or *imam*—in the whole of Islam's long history who combined in himself qualities of the two orders to the high degree that Abu Hanifah did.

The most valuable contribution that Abu Hanifah made to *Fiqh* was distinguishing between canon law and non-canonical rules of law.

Some accounts of the sayings and doings of Islam's Lawgiver related to matters having nothing to do with his prophetic office, but owing to a terminological laxity even these accounts had come to be designated as Traditions. This led to the grave and common error of deducing rules of canon law from words and deeds of the Prophet which did not pertain to his office of Lawgiver. Dealing with this subject, Shah Wali-Allah writes as follows: "Whatever has been reported from the Prophet and included in books of *Hadith* is divisible into two categories, viz. (*i*) things pertaining to the Prophetic Mission, in connection with which was revealed the *ayat:* 'Adopt whatever the Prophet commands and refrain from whatever he prohibits'; and (*ii*) things not connected with the Prophetic Mission, in regard to which the Prophet himself said: 'I am only a man : whenever I give you a religious command, follow it, but whenever I give you a direction based upon my personal opinon, remember that I am only a man.' "[6]

Included in the second category are Traditions from the Prophet in which he made pronouncements on medical questions; actions performed by him habitually and not as acts of worship, casually and not deliberately; Traditions narrated by him in accordance with the common beliefs of his people, such as the Traditions about *Umm Zar'* and Kharafah; and things done or said by him at the dictates of expendiency and which, therefore, it was not incumbent upon everyone to follow such as orders about the deployment of troops and determination of fighting slogans. It was in connection with the last-mentioned that 'Umar said: "What need is there for *ramal* (walking proudly during the *Hajj*) now? The people for whose sake we used to do it have been destroyed by God." There are many other orders of the Prophet which were similarly based on mere expediency, as, for example, the ruling that a Muslim killing an infidel became the owner of the latter's arms.

6. *Hujjat-Allah al-Balighah.*

Abu Hanifah anticipated Shah Wali-Allah in this fine distinction. Thus, he assigned to the second category Traditions relating to such matters as the Friday bath, the going out of women for the two 'Id prayers, the execution of divorce, the determination of *Jizyah,* the levying of tribute and the distribution of booty. Shafi'i and others, on the other hand, include such Traditions in canonical Traditions.

What essentially distinguishes the Hanafi school of law from other schools is the fact that all its rules are based upon this distinction, and it is this which gives them a breadth and liberality not found in the rules framed by any other school. It is a pity that, clear as the distinction is, the founders of the other schools did not pay heed to it. Indeed, if examples provided by the first four Caliphs had not been there to support the distinction, it is probable that even Abu Hanifah would not have ventured to adopt it. Several *imams* after Abu Hanifah, who were his rivals in *ijtihad,* ignored it. That, however, does not cast any doubt on its soundness and on Abu Hanifah's legal acumen in observing it.

No one could understand the inner meaning of canonical commands better than the first four Caliphs. Let us look at their practice. Before 'Umar became caliph slave-girls who had borne children were generally bought and sold. 'Umar stopped this altogether. The Prophet during his journey to Tabuk had imposed *Jizyah* on non-Muslim at the rate of one dinar per head. 'Umar fixed it in Iran at different rates, viz. 48, 12 and 6 dinars per head. The Prophet used to give a share of the booty to his relatives. The first four Caliphs gave none even to Hashimis. In the time of the Prophet and even during Abu Bakr's Caliphate three pronouncements of divorce were considered as a single pronouncement. 'Umar, when he became Caliph, had it proclaimed that three pronouncements would be considerd as constituting an irrevocable divorce. During the Prophet's lifetime no *hadd* (definite punishment) had been prescribed for drinking. Abu Bakr prescribed forty stripes, which 'Umar, because of increased drinking during his reign, raised to eighty. These are facts which have been stated in *Hadith* books

and which there is no denying. But does not this mean that the first four Caliphs defied canonical orders of the Prophet, knowing them to be such? If they had done so, they would not have been the "Rightly-Guided Caliphs" they are considered to have been, but rivals and adversaries of the Apostle of God.

The truth of the matter is that for the Companions, who through associating with the Prophet day and night had developed an intuitive understanding of the *Shari'ah,* it was easy to distinguish between canonical directions and those about which the Prophet said: "You people know more about your worldly affairs than I do. "The Lady 'A'ishah said on one occasion after the Prophet's death: "If the Apostle of Allah were alive today he would not have permitted women to go to the mosque." This is a clear proof of the fact that 'A'ishah did not consider the permission given to women by the Prophet to go to the mosque as canonical and irrevocable; for had it been so, change of time and circumstances would have made no difference to it.

Abu Hanifah followed the example of the Companions in this matter, and his opinions are generally in accord with the practice of the first four Caliphs, but people who are unable to discern the fine distinction involved reproach him and even the Companions. Quoting 'Umar on the question of divorce, Qadi Shaukani writes: "What was poor 'Umar in comparison with the Apostle of Allah?" But he seems to have forgotten that 'Umar himself was conscious of his inferiority to the Prophet far more than he, Shukani, could understand.

The greatest contribution made by Abu Hanifah to the first of the two divisions of *Fiqh* which we have distinguished above was the formulation of rules of deduction, which made of *Fiqh* (until then only a collection of fragmentary rules and propositions) a regular science. In this lay his most valuable and most astonishing achievement—an achievement which no other man was capable of at a time when the religious sciences were still in a rudimentary stage.

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It is commonly thought that Shafi'i was the first to formulate these rules, which are now called *Usul-i-Fiqh* (the roots or principles of jurisprudence). This idea is correct only in so far as reduction of the rules to writing is concerned. Before Shafi'i set them forth regularly in writing, the rules had been framed by Abu Hanifah, who had thus already laid the foundation of the science of *Fiqh*.

The process of deducing legal principles and particular rules had started in the time of the Successors or rather in that of the Companions. The method followed was not, however, scientific, but purely pragmatic and intuitive like the practical reasoning of the common man. Neither any technical terms nor any rules had yet been devised.

Some technical terms came into use towards the end of the Umayyad rule. For example, Wasil b. 'Ata', the founder of *Kalam*, classified rules of the *Shari'ah* according to their sources, viz. clear Qur'anic texts, universally accepted Traditions, the consensus of the community and reason (i.e. analogical deduction). He also established a number of general propositions as, for example, that generality and particularity are two distinct concepts, that abrogation is possible only in the case of commands and prohibitions, and that there can be no abrogation in regard to events and reports.[7] Wasil b. 'Ata' can be described, on the basis of these propositions, as a pioneer in formulating principles of *Fiqh* only in the same way as the Caliph 'Ali is reputed to be the founder of grammar because of his having framed a few grammatical rules. However, this was all that had happened up to Abu Hanifah's time : because of his desire to organise *Fiqh* as a regular science he had to devise his own rules for deducing legal principles.

Although in later times the roots of *Fiqh* became the subject-matter of a vast science, which addressed itself, along with the older questions, to hundreds of new ones of which there was no sign in Abu Hanifah's time, yet there is no doubt that he formulated principles relating to all the fundamental questions with which *Fiqh*

7. Abu Hilal 'Askari in his *al-Awa'il* attributes these dicta to Wasil b. 'Ata'.

was and is to this day concerned, such as exposition of the four roots, gradation of Traditions and deduction of rules from them, exposition and rectification of errors, limits of public consensus, kinds and conditions of analogy, classification of dicta, distinction between the general and the particular, reconciliation of contradictions, and methods of interpretation.

I have already dealt with the principles formulated by Abu Hanifah in respect of Traditions. Examples of his principles in regard to other matters are provided by the following pronouncements made by him: "Nothing that is not proved by *tawatur* is part of the Qur'an, and whatever is redundant is abrogated. No addition to the Qur'an is permissible simply on the basis of a single-person report. To construe as absolute what is limited is to add to *nass* (the Qur'anic text). The generality of the Qur'an cannot be particularised by single-person reports. The general is absolute like the particular. If the particular is posterior in time, it makes the general definitive. If the particular is prior in time, it does not particularise the general. In fact, the general abrogates the particular; and if the narrator is ignorant of history, both become void and some other argument becomes necessary. The meaning of an attribute cannot be argued from. Denial is not a proof of falsification."

Pronouncements of this kind by Aby Hanifah lie scattered in the writings of his pupils and books on the roots of *Fiqh* written by Shafi'i and Hanafi scholars in a large enough number to provide material for a small book.[8] It is on the basis of these pronouncements that Abu Hanifah is regarded as the originator of a special method of *ijtihad*, and since the principles embodied in these pronouncements are followed by Muhammad b. al-Hasan and Abu Yusuf, their methods of *ijthihad* cannot be considered to be different from that of Abu Hanifah's although the three differ on a number of particular questions.

8. It should, however, be remembered that all the principles stated in books on the roots of *Fiqh* cannot be claimed to Abu Hanifah's pronouncements. Shah Wali-Allah has written a fine essay on this in his *Hujjat-Allah al-Balighah*, but he denies the authorship of Abu Hanifah even inrespect of some pronouncements established on authentic testimony to be Abu Hanifah's.

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The disagreement of Shafi'i and other doctors with Abu Hanifah about the principles gave rise to a lengthy and involved controversy, for an account of which there is no room in his small book. Those interested will find it in books on the roots of *Fiqh*.

As I have already said, the position of Abu Hanifah in the division of *Fiqh* dealing, with canon law is that of an exponent and deducer, and there is no doubt that the work done by him as such is unparalleled in the history of Islam and, perhaps, in all history. The followers of other religions that possess revealed books also derive rules of law from theose books, but none of them can claim to have raised this to the rank of a regular science based on properly foumulated principles.

The second division of *Fiqh,* which is law pure and simple, is wider in scope than the first , and in this division Abu Hanifah has a position all his own as a *mujtahid* : indeed, he is the only lawmaker in the history of Islam.

Among the Muslims the framing of laws has always been the preserve of religious leaders, men distinguished for their extreme devoutness and piety. The qualities prized most in religious people are detachment from worldly matters, aloofness, strictness in the performance of duties, unawareness of public affairs and dislike of the followers of other religions. All these are qualities adverse to social progress. People characterised by an excess of these qualities, especially if they are inborn in them, are unable to understand the requirements of a developing civilisation. For all the veneration that such people rightfully enjoy because of their holiness and purity, they can offer little guidance to men and women in the conduct of their mundane affairs. Who can deny the exalted rank of goldy men like Junaid Baghdadi, Ma'ruf Karkhi, Shibli and Dawud Ta'i; but one cannot imagine them in the role of legislators. Even the *mujtahids* who framed personal and public laws under the title of *Fiqh,* although no anchorites like these holy men, did not know enough about mundane matters to legislate about them. That explains why some of their laws are so rigid and unimaginative as to be difficult of enforcement. For example, Shafi'i and some

other *mujtahids* maintain that no one but a reliable man can be a witness to a marriage, that a neighbour has no right of pre-emption, that it is impermissible to sell gifts, that the testimony of *dhimmis* is not admissible in any circumstances, and that if a Muslim kills hundreds of innocent *dhimmis* he is not punishable for this. Laws of this kind are simply not workable.

Abu Hanifah was alone among his contemporaries in combining religious piety with an understanding of worldly needs, and especially the needs of a growing society. Because of the legal references constantly made to him he had become acquainted with thousands of complicated questions concerning human relations. His concultative council was to all intents and purposes a supreme court, which had decided hundreds of thousands of cases. It virtually had an official status and was consulted by State functionaries. Most of his disciples and associates, who numbered hundreds, were people holding judicial posts. To crown all, he was a born jurist with a flair for the finer points of law an intuitive appreciation of its operation in human affairs. A good illustration of this is provided by the following incident narrated by most of the historians who have written about him.

One day Abu Hanifah called on Qadi Abi Laila and found him engaged in hearing a case. The plaintiff alleged that the defendant had defamed him by calling his mother an adultress. The *Qadi* inquired of the defendant, who also was present in court, what he had to say in his defence. Abu Hanifah, intervening, said to the *Qadi* that the suit was not yet ready for being heard and advised him to ask to plaintiff if his mother was alive, because, if she was, she should also join the suit and be either personally present or authorise the plaintiff in writings to represent her. On the *Qadi* questioning him accordingly, the plaintiff stated that his mother was dead. The *Qadi* thereupon wished to proceed with the hearing. Abu Hanifah intervened again and suggested that the plaintiff be asked whether he had any brothers and sisters because, if he did, they should also joined to the suit. There were a number of further questions which Abu Hanifah caused the *Qadi* to put to the plaintiff. After those questions had been answered, Abu Hanifah

declared that the case was ripe for hearing and advised the *Qadi* to proceed with the examination of the plaintiff. It is clear from this account that, but for Abu Hanifah's intervention, the *Qadi* would have proceeded with the case in a manner no better than the rough and read manner in which the common people settle their disputes. Abu Hanifah desired the case to be heard in accordance with the proper judicial procedure, an essential requirement of which was that all the persons who could claim to be aggrieved by the cause of action should be parties to the suit so that it should not be necessary for the court to adjudicate severally upon a number of claims arising from the same facts.

Abu Hanifah's compilation of laws falling within the second division of *Fiqh* was a comprehensive code for its time and, although known by the general title of *Fiqh,* comprised laws relating to many subjects, such as contract, sale, revenue, crime and criminal procedure, on which separate laws have been framed in modern times.

Some European writers[9] think that in compiling his code Abu

9. [As I have not been able to get hold of *Roman Civil Law* by Sheldon Amos, I have paraphrased in the following note the passages quoted from it by Shibli in preference to retranslating them into English—*Translator.*]

This statement was based upon an impression generally prevalent; but after I had completed the writing of this book I came to know of an emphatic claim to this effect made in a recently published book, entitled *Roman Civil Law* (pp. 406-15), by Sheldon Amos, at present Professor of Law in London University. The superiority enjoyed today by Europeans over other peoples, especially the Muslims, has engendered in the minds of European writers a natural contempt for the past achievements of the Muslims and a tendency to dismiss those of them that are too obvious to be denied as derivations from Greece, Rome or Egypt. What Professor Amos has written on the subject is a glaring example of this approach. He claims not only Hanafi *Fiqh* but the legal system of Islam in general to have been borrowed from Roman law. I propose to examine this claim and see how far it is valid.

Professor Amos begins his discussion by saying that the emergence in the East of a modern, original and self-contained legal system, based, as it was claimed to be, entirely upon the Qur'an and the *Hadith,* was such a strange phenomenon that one is irresistibly led to question the validity of the claim. Both positive evidence and historical probability, according to him, militate against it.

Then, after laying down the general rule that it has from the very beginning been customary for every legal system to be named after some individual lawgiver, real or supposed, he affirms it as a strong presumption that the well-formulated system of laws which was introduced by the Muslims in the lands conquered by them and which came to be known as Muhammadan law was in fact a modified version of an advanced legal system already in vogue.

Hanifah took a good deal of help from Roman law, incorporating many of its rules in the rules framed by him. In support of this they advance the following arguments:

(1) Many of the propositions of Hanafi *Fiqh* are in accord with Roman law.

(2) Roman law was in force in all the lands comprising Syria and, since the civilisation and culture of Syria exerted a good deal of influence upon the Muslims, it is very likely that the Muslim lawmakers profited from the law prevalent in Syria.

The Professor cites historical evidence to prove that the Muslims, when they conquered Syria and Egypt, found in existence a number of educational institutions of Roman law : at Beirut a law school established in the time of Alexander Severus with four professors on its staff, at Caesarea a council of lawyers, and at Alexandria a regular college. The presumption that the Muslims profited from these institutions is, according to the Professor, promoted to a certainty by the manner in which the Muslims conquered various lands and settled in them. In the beginning, he says, they contented themselves with levying a poll-tax (*jizyah*) on the conquered peoples; but in due course, with the advancement of learning among them and the acquisition by them of the arts of civilised government, they framed for the conquered people laws derived from the indigenous laws.

Neither in the Prophet's time nor during the early Caliphate, the Professor goes on to say, was there any attempt to interfere with the complex temporal affairs of the advanced peoples that had become subjects of the Arabs, since they had neither the time nor the mental capacity nor the men needed. When in due course peace was established in Baghdad, Cairo and the cities of Spain, so that there was leisure for study and contemplation medicine, mathematics, logic and psychology flourished in these cities, The Professor holds that the Arabs learned jurisprudence from Basil, Leo and their commentators, just as they learned logic from Aristotle. In support of this he advances the argument that the Qur'an contains too few directives to provide the basis for a legal system. The directives in the Qur'an, according to him, are no more than the following: (*i*) do not swear by God; (*ii*) you can divorce your wives twice; after that, you should separate them with kindness and gentleness; (*iii*) usurers will arise on Judgment Day like people possessed by evil spirits; (*iv*) keep a record of fixed period loans; (*v*) you can have more than one wife, up to four at a time, provided you can be just to all of them; (*vi*) a male heir gets two shares of the inheritance, while a female heir gets one; but if there are two female heirs they get two shares, and the husband gets half the share; (*vii*) a will made during one's last illness must be authenticated by witnesses; (*viii*) the year has twelve months; (*ix*) the punishment for adultery and slander is death.

After listing the above directives, the Professor remarks that it is difficult to trace in these simple rules their Roman foundation, but goes on to say that this makes it all the more surprising that the superstructure erected by Muslim jurists with such crude and antiquated material reminds one of the principles and rules of Roman law at every turn.

(3) The number and extent of the laws included in Hanafi *Fiqh* cannot be explained otherwise than by acquisition from other laws already existing in the civilised world.

This issue can best be decided by a thorough comparative study of the two sets of laws with a view to determining whether what they have in common is what is common to the laws of all peoples or something more. I am not acquainted with Roman law. Even if I were, it would not have been possible for me to find time for the task. I must, therefore, confess that what I am going to say on the subject is nothing better than conjecture. It must, however, be remembered that those who have initiated this debate rely less

After that, the Professor lists a number of enactments common to Roman and Islamic law, and concludes that Muslim *Fiqh* is a modified form of Roman jurisprudence.

The premises from which the Professor draws this conclusion are the following: (*a*) there are too few directives in the Qur'an for a legal system to be framed with them; (*b*) Roman law was already current in the lands conquered by the Muslims, (*c*) the Muslims translated the legal writings of Greece and Rome; and (*d*) there are a number of rules common to Roman and Islamic law.

This is a subject which, as I have said in the present book, only he should venture to discuss who is fully acquainted with both Muslim *Fiqh* and Roman law. Undoubted as the Professor's knowledge of Roman law is, it is difficult to concede him similar knowledge of Muslim *Fiqh*. Thus, as against the short list of Qur'anic directives compiled by him, there are in fact more or less five hundred directives in the Qur'an. It is true that these for the most part deal with the ritual of worship; nevertheless, there are no less than one hundred Qur'anic verses laying down rules of law. These verses have been separately compiled and innumerable commentaries have been written on them. Not to speak of his being acquainted with all these rules, the Professor does not seem to know of more than two directives even in regard to marriage and divorce, namely, those relating to the number of divorces and marriages, although there are in the Qur'an detailed directives about forbidden marriages, marrying women with whom one's father has had intercourse, marrying two sisters at the same time, marrying *mushrik* women, divorce before and after consummation of marriage, divorce by women, *ila'* (temporary denial of conjugal rights to women), etc.

As regards inheritance, the Professor seems to be acquainted only with the rule about the husband's share and the rule laying down that a male heir gets twice the share of a female heir.

It is a pity that he does not know that there is in the Qur'an a whole chapter on inheritance, in which the share of the parents and the rule about *kalalah* (a man or woman whose father is dead and who has no issue) in particular have been clearly laid down. The Professor is also completely unacquainted with the detailed directives in the Qur'an about compensation and *mulct* for murder and homicide in error. It is surprising that with such limited knowledge of the subject the Professor ventured upon a discussion of it.

After these introductory remarks let me now take up the premises on which the Professor has based his inference. He himself admits, and it is also a fact that in the early years, that is, during the time of the first four Caliphs, the Muslims remained isolated from other

upon conjecture; for I have yet to come across a writer who can claim to have mastered both Roman law and Hanafi *Fiqh* and made a comparative study of much of their content.

It cannot be denied that there are in Hanafi *Fiqh* a number of rules of law which were prevalent in Arabia and Iraq before the advent of Islam; but borrowing from indigenous laws is nothing peculiar to Hanafi *Fiqh*. Many of the laws considered Islamic and even laid down in the Qur'an were in vogue in pre-Islamic times.

peoples and gained no knowledge of their laws. Thus, as the Professor admits. the schools of Roman law at Damascus, Beirut and Alexandria exerted no influence upon Muslim *Fiqh*.

Let me now consider the question of the time when those of the rules of Islamic law which the Professor regards as similar to rules of Roman law were framed. On the subject of the laws of inheritance, for example, the Professor claims the Islamic enactments governing children, lineal descent, collaterals, blood-relations and their children, husband and wife, master and slave to be in accord with Roman law. He further says that among the Muslims the inheritance divided in the same way as prescribed in Roman law, that is to say, in shares of the following denominations : one-half, one-fourth, one-eighth, two-thirds and one-sixth. It is possible that the same shares were prescribed by Roman law; but the Professor does not seem to know that they were laid down in the Qur'an itself, which, on the Professor's own admission, bears no trace of Roman influence. It is true that certain classes of heirs are not mentioned in the Qur'an; but these had been clearly defined by the end of the early Caliphate. There are many ancient books of *Hadith* and *Athar* which bear such strong testimony to this that even the most prejudiced reader cannot refuse to believe it.

The rules of inheritance which the Professor characterises as derived from Roman law are these : that a will, whether oral or written, must be attested by two witnesses and that, without the consent of the heirs, the testator cannot will away more than one-third of the property. But these rules were laid down during the time of the Prophet or the early Caliphs—a fact which the commonest Arabic scholar cannot deny. The Professor has enumerated certain other rules which he considers as derived from Roman law. I cannot repeat them here: suffice it to say that most of these rules were framed during the period when, on the Professor's own showing, the Muslims had not yet acquired any knowledge of the laws of other peoples.

It is obviously the Professor's puzzlement as to how the Qur'anic directives, which, according to him, were small in number, provided the basis for a great corpus of laws that has led him to characterise Islamic *Fiqh* as derived from Roman law. What would have added immensely to the Professor's puzzlement is the fact, had he known it, that—leaving aside the temporal laws of Islam, which, according to him, were deri ed from Roman sources—there are very few directives in the Qnr'an and Traditions about prayer, fasting, *Hajj* and *Zakat*, notwithstanding which there is a grand structure of laws on these subjects in Islamic Fiqh. How was such a grand structure built on such scanty foundations? Would the Professor argue that in this matter also Islamic *Fiqh* is indebted to Roman law? What about the Islamic sciences and arts? How did they originate and how did they develop? How few were the questions relating to exegesis, Tradition, roots of Traditions, principles of *Fiqh* and biography that arose in the Prophet's time and how advanced are these disciplines today? Are they not all of them independent disciplines now and do they not bear witness to the penetration, intellectual reach and breadth of imagination of the Muslims? Were they all acquired by them from Greece and Rome?

Abu Hilal 'Askari has set them out at length in *Kitab al-Awa'il*. For example, the regulations laid down by 'Umar about tribute and taxes were the same as had been framed by Nushirwan the Just. Nor was this a pure coincidence: 'Umar deliberately adopted Nushirwan's regulations, as has been explained in clear words by Tabari and Ibn al-Athir.

In framing laws for a country a legislator generally has before him all the laws and customs already prevalent: he adopts some of them, adapts others and rejects the rest. Presumably Abu Hanifah did the same. The probability, however, is that he drew more upon the laws of Iran than upon Roman law, because, in the first place, he was a Persian with Persian as his mother tongue and, in the second place, his native city was Kufah, which was part of Persian territory.

It has to be conceded that Abu Hanifah must have profited from the laws and customs prevalent in Persia. The question is: how does this affect his status as a lawmaker? Can he properly be

The principles of *Fiqh* which Professor Amos has described as acquisitions from Roman law were framed at a time when, according to the Professor, the Muslims had not yet acquired anything from other peoples. Even in later times Islamic *Fiqh* never owed anything to Roman law. The Professor is right in asserting that during the Abbasid period the Muslims learned the arts and sciences of Greece and Rome. He should, however, have remembered that it was only a small group that did so and did not consider it wrong to do so. The majority consisted of those who, proud of their indigenous accomplishments, never borrowed from other nations. The *mujtahids* and *faqihs* belonged to this class. I have seen a detailed list of the Greek and Latin books that were translated into Arabic. It consists of books on philosophy, medicine, mathematics, astrology, chemistry. industry, history, biography, fiction, etc., but it includes not a single book of law, which is most probably accounted for by the fact that the *fuqaha'* and *mujtahidin*, who were the framers of laws in Islam, considered it forbidden to borrow from other nations. Could anyone expect Abu Hanifah, Malik, Shafi'i or Ahmad Hanbal to learn from Greece or Rome the principles of *Fiqh*, which they regarded as an integral part of religion? Had the Professor known something about these *imams* and had he also known the fact that all divisions of *Fiqh* were compiled during their time, he would never have made the claim in question.

As regards the fact that there are some rules common to R oman law and Islamic *Fiqh*, it is nothing extraordinary. If you compare any two legal systems, however unconnected apparently, you will find many enunciations that they have in common; and this is quite a natural phenomenon, for after all there is a similarity between the cultural, political and individual requirements of all peoples of the earth and, therefore. similarity between the laws framed to cope with these requirements is not surprising. "If two wayfarers travel on the same road and in the same direction, it is nothing surprising for one to follow the other" [Persian couplet].

called a lawmaker or only a reproducer and compiler? As far as my research goes, the Muslims acquired very little knowledge of other peoples' laws. Lists of translations consist of the names of thousands of books, but they were most of them books of philosophy, medicine and allied disciplines; not a single book of law is mentioned in the lists. In any case, it is an established fact that when Abu Hanifah compiled his code of *Fiqh* no book of law had yet been translated. Therefore, the hypothesis that Abu Hanifah drew upon the law books of other nations must be dismissed as baseless. As regards the customs prevailing in the country, they were not fit to be given the title of law, even if reduced to writing.

To sum up, the historical indications available do not all prove that Abu Hanifah had before him any book of Roman or Persian law on which he could lay the foundation of his *Fiqh*. Nor can it be denied that such collections of *Fiqh* propositions as existed before his code were not scientific in character. It follows from all this that he was the originator of the science of *Fiqh*. He was no doubt helped by popular customs the laws in force and the rulings of doctors of law, but as no lawmaker in the world has been able to do without help of this kind, the fact does not detract from his stature as a lawmaker.

I will now deal with those special features of Hanafi *Fiqh* which exalt it above all other systems of *Fiqh*.

The first and foremost distinguishing mark of Hanafi *Fiqh* is that is bases laws upon expediency and beneficiality. There have been two schools of thought in Islam from the very beginning in regard to prescriptions of the *Shari'ah*. According to one of them, they are purely devotional, that is to say, there is no expediency or benefit implied in them. For instance, winedrinking and debauchery are reprehensible simply because the *Shari'ah* has prohibited them, while charity and alınsgiving are praiseworthy simply because the Lawgiver has enjoined them : intrinsically none of these acts is either good or bad. Shafi'i is inclined to subscribe to this school of thought,

and perhaps that is the reason why Abu'l-Hasan Ash'ari, the founder of *kalam* among the Shafi'ites, based his system upon it.

According to the second school of thought, all rules of the *Shari'ah* have their origin in expediency, even though the common people do not understand this in the case of some of them. This doctrine has been the subject of much controversy because of prominent authorities ranging themselves on opposite sides in regard to it. The controversy, however, was not justified, since the expediency and purpose of all important enjoinments have been stated in the Qur'an itself. In rejoinders to the unbelievers the Qur'an always explains the rationale of its directives. For example, it says about prayer that it saves one from immoral and forbidden acts; about fasting that it leads to piety; about *jihad* that it is intended to end disruption. There are similar explanations and hints here and there in the Qur'an about other acts commanded by it.

Abu Hanifah subscribed to the doctrine of the rationality and beneficialness of the rules of the *Shari'ah* and made it a postulate of all his *Fiqh* propositions. It is owing to this that of all the systems of *Fiqh* the Hanafi system is most in accord with rational principles. Tahawi, who was both a *muhaddith* and a *mujtahid,* has written a book on this subject under the title of *Sharh Ma'ani al-Athat,* in which he stresses the necessity of proving *Fiqh* propositions with the aid of both Qur'anic texts and rational argument. He deals with every aspect of *Fiqh* and, although, exhibiting a creditable impartiality, he disgrees with Abu Hanifah on some questions, he proves by arguments worthy of a *mujtahid* that on most questions Abu Hanifah's stand was in accord with both Traditions and reason. Muhammad b. al-Hasan also has employed rational argument on most questions in his *Kitab al-Hujaj*. Both these books have been published and are available for anyone interested to consult.

Even Shafi'ites and others do not deny that Abu Hanifah's *madhhab* is in conformity with reason. Indeed, it was not to be expected that they would deny this, maintaining as they do that the farther the prescriptions of the *Shari'ah* are removed from reason, the better. Thus Razi, discussing *Zakat,* says that Shafi'i's

standpoint on it is more correct than Abu Hanifah's because it is far removed from reason and analogy, *Zakat* being a purely devotional duty needing no rational justification.

The fact that, unlike his contemporaries, Abu Hanifah favoured the principle of rationality was due to a special reason. The other doctors who applied themselves to the systematisation of *Fiqh* began their education with that subject. Abu Hanifah on the other hand, began his education with *Kalam*, application to which sharpened his intellect and increased his power of reasoning. As the Mu'tazilah and others with whom he engaged in debates followed the principle of rationality, he had to do the same in contending with them. This exercise made him realise that every prescription of the *Shari'ah* was consonant with reason. When he turned to *Fiqh* later on, he brought the same approach to bear on its problems. A comparison of the formulations of the Hanafi system of *Fiqh* with those of other systems clearly shows this approach as the distinguishing feature of the former. Not to speak of mundane matters, even in matters pertaining to worship, which in the view of literal-minded people have nothing to do with reason, the rules framed by Abu Hanifah are eminently rational.

If one tries to determine the benefits aimed at by the *Shari'ah* in prescribing prayer, fasting, *Hajj* and *Zakat* as obligatory duties and what in the light of the benefits should be the modes of performing these duties, one finds that only the modes established by the Hanafi *Fiqh* are appropriate. Prayer, for example, is the name given to a combination of acts, having different degrees of importance in relation to the real object of prayer (namely, the cultivation of humility, expression of devotion, affirmation of God's greatness, invocation of God's grace) and in proportion to the extent to which they are respectively effective in achieving that object. Some of the acts are obligatory and indispensable because in their absence the object of prayer is defeated. Each of such acts is called a *fard* in the language of the *Shari'ah*. The other acts only add grace and beauty to the ritual of prayer and their ommission does not defeat the object of prayer. Such acts rank lower than acts of the first kind and are called *sunnat* or *mustahab*.

As I have already mentioned, the Prophet did not specify which acts were *fard* and *wajib* and which were *sunnat*. There can, however, he no doubt that all the acts involved in prayer are not of equal importance. That is why the *mujtahids* thought it necessary to grade them and give them separate names. Abu Hanifah did the same, but his grading is superior to that of the other *imams*, in that it is more realistic. For example, take the question as to what are the essential ingredients of prayer, that is to say, the acts without which prayer connot be performed. Now, since in reality prayer consists in the affirmation of submission to God and in humbling oneself before Him, therefore all the *imams* are agreed that *niyyat* (expression of the intention to pray,) *takbir* (saying : "God is great"), *qira'at* (reciting Qur'anic passages), *ruku'* (bending down with hands on knees), *sujud* (bowing the head on the ground), etc., which are the best outward forms of submission to God and humbling oneself before Him, are obligatory; and the Lawgiver himself has hinted at that and, in fact, clearly stated it in some places. But some of the *imams* went beyond that and declared even a particular manner of performing these acts or making these utterances to be *de riguer*, although it was not intended to be so. Abu Hanifah does not consider the manner to have been prescribed strictly. For example, he thinks that the *takbir-i-tahrimah* (the formula of glorification of God = *Allah-o-Akbar*) can be uttered in words other than *Allah-o-Akbar* which have the same meaning, e.g. *Allah-o-A'zam* or *Allah-o-Ajall*. Shafi'i thinks that it cannot. Abu Hanifah even maintains that it is permissible to say the *takbir* in Persian. Shafi'i, on the other hand, holds that this invalidates the prayer. According to Abu Hanifah, the duty of *iqira'at* can be performed by reciting any *ayat* of the Qur'an, while according to Shafi'i it can be performed only by reciting the *Surat al-Fatihah*. In Abu Hanifah's opinion a person incapable of reciting the Qur'an in Arabic may recite it in some other language, but Shafi'i rules that out as impermissible.

It should not be concluded from this that Abu Hanifah or any other *mujtahid* fixed the essential elements of prayer purely on the basis of reason and analogy. The *imams* have, on the contrary,

adduced pronouncements and hints from Traditions in support of these elements, and their arguments are set forth at length in books of *Fiqh*. All that I mean to say is that Abu Hanifah's enunciations are supported both by pronouncements and hints derived from Traditions by rational arguments, which shows what an insight he had into the inner purpose and justifacation of *Shari'ah* prescriptions.

These remarks apply equally to questions relating to *Zakat*. The real motive behind *Zakat* is human sympathy and help of the needy. That is why those who most need and deserve sympathy and help, such as beggars, the indigent, officers admisnistering *Zakat*, the grief-stricken, debtors, travellers, soldiers and self-ransomed slaves, have been declared to be special objects of it. But differences arose on the question of dispensation. Shafi'i thinks that it is obligatory to give *Zakat* to all these categories of recipients at the same time or that, in other words, if even a single category is left out, the duty of *Zakat* is not fulfilled. Abu Hanifah, on the other hand, holds that although *Zakat* cannot be given to anybody outside these categories the question whether it must be given to all the categories together or may be given to some of them has to be decided with refernce to the circumstances. Thus, according to him, the *imam* or ruler may select some of the categories and leave out the others.

Another question on which Abu Hanifah and the other *imams* disagree is that of the mode of giving *Zakat* on domestic animals. According to Abu Hanifah *Zakat* on domestic animals may be given either in kind or in cash. Shafi'i maintains that it must be given in kind and that, if given in cash, it does not discharge the obligation. This ruling ignores the fact that, so far as the object of *Zakat* is concerned, it is immaterial whether an animal or its price is given away : the Lawgiver himself made no clear distinction between the two.

Besides these propositions, there are hundreds of questions relating to ritual duties (*'ibadat*) on which Abu Hanifah's enunciations show that he gave special consideration to the inner

purpose and the benefits likely to accrue. I, however, refrain from setting them forth for want of space This characteristic is more manifest in Abu Hanifah's treatment of secular matters.

The second distinguishing feature of Hanafi *Fiqh* is that it is easier to understand and act upon than the other systems of *Fiqh*.

The Qur'an says repeatedly: "God wishes to be gentle, and not strict with you." The Prophet declared: "I come to you with a gentle and easy *Shari'ah*." It is Islam's special pride in comparison with other religions that it is far removed from monasticism, that its ritual is not rigorous, and that its enjoinments are easy to understand and act upon.

Hanafi *Fiqh* is superior to its rivals on similar grounds.

So well known is the fact that Hanafi *Fiqh* is easy and liberal that poets and writers often employ it as a proverb. A rather curious example of this is a simile used by Anwari, an obscene and unbridled poet, in which he speaks of "the liberties allowed by 'Abu Hanifah". The simile occurs in an improper context, but the point it makes is clear. On any question, whether pertaining to the duties of worship or to worldly transactions, one finds Abu Hanifah's precepts easy and gentle and those of the other *imams* difficult and harsh. Let me by way of illustration take the rules regarding theft laid down in the *Kitab al-Jinayat* (the Criminal Code) and the *Kitab al-Hudud* (the Penal Code).

It is agreed by all authorities that the punishment for the theft is cutting off the right hand, but the *mujtahids* in defining theft have laid down certain conditions without the fulfilment of which this punishment cannot be awarded. What effect these conditions have on the rules relating to theft will be clear from the following comparative table, which will also show how easy and consistent with civilised living is Abu Hanifah's *madhhab* as compared with the other *madhhabs*.

Thefts which according to Abu Hanifah are not punishable with the cutting off of the right hand	*Divergent views held by the other* imams
Theft of an article valued at less than an ashrafi.	The other *imams* fix the mimmum value at a quarter ashrafi.
A theft committed jointly by a number of persons.	Ahmad Hanbal thinks each of them is liable to have his hand cut off.
A theft committed by a non-adult.	Malik holds the opposite view.
Theft of a shroud.	The other *imams* hold the opposite view.
Theft of a wife's of or a husband's goods.	Malik holds the opposite view.
Theft of a father's goods.	Malik holds the opposite view.
Theft of the goods of a near relation, e.g. a nephew or a brother.	The other *imams* hold the opposite view.
A theft committed by refusing to return a thing taken on loan.	The other *imams* hold the opposite view.
When the thief becomes the owner of the thing stolen by subsequent gift or purchase.	The other *imams* hold the opposite view.
Thefts committed by followers of other religions living under Muslim protection.	The other *imams* hold the opposite view.
Theft of a copy of the Qur'an.	Shafi'i and Malik hold the opposite view.

Theft of wood or other perishable goods.

The other *imams* hold the opposite view.

A large part of *Fiqh* deals with prohibitions and permissions. In this connection there are many precepts of the other *imams* which, if they were to be acted upon, would make life unlivable, while Abu Hanifah's precepts are easy to follow. For example, according to Shafi'i, the following acts are impermissible: bathing or performing ablution with water heated on dung-fire; eating out of clay vessels baked on dung-fire; using vessels made of tin, glass, crystal and agate; wearing garments made of wool, sable fur and leather (in which prayer cannot be offered); vessels, chairs and saddles with silver work on them; common sales in which there is no declaration of selling and buying. Abu Hanifah considers all these acts permissible.

An important sector of *Fiqh* connected with the requirements of society is that which deals with transactions between individuals, and it is here that the practical wisdom of the various *mujtahids* can best be judged. Up to Abu Hanifah's time the legal directions regarding transactions were too primitive to fulfil the needs of a developed society. There were no rules governing contracts, no written documents, no procedure laid down for the adjudication of disputes and the adducing of evidence. Abu Hanifah was the first to introduce all these. Unfortunately, *mujtahids* who came after him, instead of adding to what he had accomplished, reverted to the old-time rough and ready practices, motivated as they were by a deep-rooted bias for unworldliness. A famous traditionist taunts jurists in the following words: "These people think that when a suit is filed regarding a piece of land it is necessary to state in the plaint its situation, boundaries and legal position, although in the Prophet's time there was no question of furnishing these particulars." For the traditionist this is a matter for reproach, but if he had lived in a civilised country and had had something to do with business transactions, he would have known that the things he considers reprehensible are essential to civilised living.

Shafi'i does not consider delivery of possession necessary for a

gift, does not recognise a neighbour's right of pre-emption, regards the testimony of unknown persons as inadmissible in transactions, requires witnesses to a marriage to be reliable and just and rules out as invalid the testimony of *dhimmis* in their transactions *inter se*. These things may be practicable in countries still in a primitive state, where transactions are simple and of an elementary nature, but not in civilised countries, where transactions are variegated and complex and cannot be conducted without a proper determination of the rights of the parties and the nature of the subject-matter. Abu Hanifah, realising this, holds views different from those of Shafi'i; and it was Malik's failure to realise it that evoked from Ibn Khaldun the well-founded remark about his *madhhab*, which I have quoted in an earlier chapter, namely, that it gained currency only in countries which had not made much progress in civilisation.

The sagacity and clearsightedness that Abu Hanifah brought to bear upon his formulation of rules relating to secular transactions can properly be gauged only by a detailed examination of some of the chapters into which these rules are divided. But there is no room for that in this short book. I, therefore, content myself with discussing the rules on marriage, which pertain to both the religious sphere and the secular.

The jurists have included marriage among religious duties, but this is only a technical convention: because of its intimate connection with the life of the community, marriage is largely a social transaction. One reason why I have selected the rules about marriage by way of illustration is that some European writers have described the Hanafi law of marriage as barbarous and inhuman. But I hope to prove that not even the most civilised countries of the world today have fairer and more humane marriage laws than those laid down in Hanafi *Fiqh*. Bentham characterises the Roman law of marriage as a collection of unjust rules : the Hanafi law of marriage, as I hope to show, is the very antithesis of an unjust dispensation. This may also, incidentally, correct the misconception that Hanafi *Fiqh is* derived from Roman law.

Marriage forms a large part of social life. According to a philosopher, it is the binding force of communities, the root of civilisation and the foundation of culture. It can, therefore, well be said that a lawmaker who makes a good exposition of marriage laws has a good insight into the laws that govern civilisation. Although Abu Hanifah was not the author of the marriage laws he expounded, these having been laid down in principle by the Lawgiver himself, yet the perspicacity with which he expounded them and deduced detailed rules from them is the hallmark of a great lawmaker. The Lawgiver's pronouncements were at times mere aphorisms, at times ambiguous statements, at times broad hints, spelling out no details. As a consequence, wide differences arose among the *mujtahids* about their interpretation and application. The way in which Abu Hanifah worked out the details of the general statements, removed the ambiguities clarified the hints and framed specific rules was a performance which only his unique gift of *ijtihad* was equal to. No other *mujtahid* is his rival in this field.

The following are the broad heads under which he deals with marriage laws:

(1) The persons between whom marriage is permissible.

(2) Guardianship for purposes of marriage

(3) Stability of the marriage contract.

(4) The rights of the parties to a marriage contract.

(5) The ritual of marriage.

Restrictions on marriage exist in all religions with slight differences. All religions prescribe certain prohibited degrees, which are more or less the same in all of them and all of which are based on rational considerations. Shah Wali-Allah in the *Hujjat-Allah al-Balighah* and Bentham in *Utility** advance the same arguments to

[* Shibli was presumbly referring to *An Introduction to the Principles of Morals and Legislation* by Jeremy Bentham.—*Translator.*]

justify the prohibited degrees. As these are in accord with nature and reason and are clearly stated in the Qur'an all the *mujtahids* are agreed on the principle underlying them, but they disagree on the details not mentioned in the Qur'anic text. One of the latter is the question whether the prohibition is created by illicit sexual intercourse, which is the subject-matter of much controversy between Abu Hanifah and Shafi'i. Shafi'i holds that it is not : for example, a man is not prohibited from marrying a woman with whom his father has had sexual intercourse. In fact, Shafi'i stretches this to the point of saying that a man may even marry his illegitimate daughter. The argument he advances is that, since illicit intercourse is an illegal act, it cannot turn what is lawful into what is unlawful. Abu Hanifah holds the opposite view : according to him, the natural effect of blood-relationship on the relations between men and women is not confined to marriage; and this is the correct view. The principle underlying forbidden degrees does not come into operation specially as a consequence of marriage. It is patently contrary to the laws of Nature to permit marital relations between a man and his own daughter, even if born out of wedlock. This is also true of the concubine of one's father. There are hints about this in the Qur'an, but as I am not concerned with a textual debate, I refrain from citing them.

The second broad head concerns the competence to enter into a marriage contract. This is a very important question, on the decision of which depends the goodness or badness of the institution of marriage to a large extent. According to Shafi'i and Ahmad b. Hanbal, a woman, even if she has attained to puberty and maturity, is not competent to contract marriage independently and needs a guardian to consent to her doing so. Oh the one hand, they thus restrict a woman's legal powers to the guardian that he can give her in marriage even against her will. According to Abu Hanifah, a woman who is a major is competent to contract marriage of her own will and can, in fact, on attaining puberty, refuse to be bound by a marriage contracted for her by her guardian during her minority.

This divergence of views stems from a difference of outlook on women's rights. In all religions other than Islam women have been assigned a low social status and granted rights in a niggardly manner. Among the Hindus and Christians they have no right of inheritance, which was the case in Arabia itself before Islam. In many other matters they are treated as men's inferiors but Islam gave men and women equal rights, declaring: "Men are entitled to what they earn by their deeds, and women to what they earn by theirs." Abu Hanifah kept this equality in view in all matters, which is a distinctive feature of his *Fiqh*. For example, according to him, in matters like marriage, divorce and release from the marital bond, women's testimony is of equal value to men's, whereas the other *imams* regard it as unreliable. Even where the latter consider women's testimony as admissible, they impose the condition that two women should corroborate each other, Shafi'i raising the number to four. With Abu Hanifah a woman's evidence is as reliable as a man's. Abu Hanifah considers women as fit to be appointed *qadis,* whereas the other *imams* do not. As in these matters, so in marriage, Abu Hanifah concedes to women an independent legal status equal to men's.

Apart from the principle of the equality of the sexes, marriage is a transaction which cannot be dealt with on the analogy of other secular transactions, since it is a relationship which is many-faceted and intended to be lifelong. It is extremely unfair to grant one of the parties to such a relationship no rights at all.

Shafi'i relies on literalist arguments to justify his stand, but Abu Hanifah counters them with stronger arguments of the same kind. If Shafi'i quotes: "There is no marriage without a guardian," Abu Hanifah rejoins with : "A woman is entitled to contract marriage herself rather than through her guardian : the consent of a woman who has come of age is to be obtained." However, this is not the place to go further into the debate.

The third broad question is about the extent to which it is necessary to make the marriage contract stable and enduring.

Marriage can be the foundation of civilised life and the binding force of communities only if it is a firm and lasting relationship; otherwise it is only a means of gratifying an animal appetite. Abu Hanifah has kept this clearly in view in laying down rules about the method of performing marriage, fixing the dower, enforcing divorce and giving effect to *khal'* (divorce by the wife).

Abu Hanifah's most important pronouncement in this connection is that so long as the relations between husband and wife are good, divorce is prohibited. Even where he considers it permissible—that is, when there are compelling reasons for it—he prescribes a procedure which leaves room for rectification and revocation. According to this procedure, there must be three divorces at intervals of one month, so that the husband gets ample time to reconsider his decision and, if he so wishes, rescind it, which, indeed, is *mustahabb* (desirable). If there is no reconciliation during this period and it is established that none is possible, then there has of necessity to be a divorce. After the divorce the husband has to pay the wife's dower and her maintenance expenses for three months. The idea behind this is that the wife should have means of subsistence until she can find a new husband. I give below a table showing Abu Hanifah's rules on this subject and those of other *imams.* How important Abu Hanifah considers the marriage contract to be and how solicitous he is to ensure that it remains inviolate under any circumstances will be clear from the table:

Abu Hanifah's Rules	*Other* Imams' *Rules*
(1) So long as there are good relations between husband and wife divorce is prohibited.	(1) According to Shafi'i, it is permissible even then.
(2) It is forbidden to give three divorces at a time and whoever does so is a sinner.	(2) Shafi'i and Ahmad b. Hanbal think that it does not matter.

Abu Hanifah's Rules	*Other* Imams' *Rules*
(3) The amount of dower can in no circumstances be less than 10 dirhams. (The idea is to prevent thoughtless divorces, for poor people would not find it easy to pay such an amount.)	(3) According to Shafi'i and Ahmad b. Hanbal, even a *habbah* is enough (which means that a man may divorce his wife frivolously and subject her to severe hardship.)
(4) Consummation of marriage makes payment of the full dower compulsory.	(4) According to Shafi'i, it makes only half the dower payable.
(5) Skin diseases, e.g. leucoderma, are no ground for dissolution of marriage.	(5) According to Shifi'i, they are.
(6) If a man divorces his wife during his last illness and dies during the *'iddat* (period of probation), the wife is entitled to inherit from him.	(6) Shafi'i holds that she is not.
(7) A revocable divorce is no legal bar to sexual intercourse; for the marital connection is not broken by a minor misunderstanding or quarrel.	(7) According to Shafi'i, it is forbidden as if the divorce were irrevocable.
(8) For the revocation of a divorce an oral declaration is not necessary; any act indicative of reconciliation is enough. (The idea is to facilitate reconciliation and revocation of divorce.)	(8) Shafi'i thinks that a formal declaration is necessary.

Abu Hanifah's Rules	*Other* Imams' *Rules*
(9) No witness to a revocation is required; for it may happen in some cases that no witness may be available during the prescribed period, which may be about to expire, and as a result the divorce may become irrevocable.	(9) Malik considers a witness to be indispensable.

In framing rules of law for marriage it is extremely necessary to fix the rights of men and women in such a way as to ensure justice between them and see that the equality with men which women enjoy in certain matters is not nullified; for what a woman expects from marriage is happiness and comfort and not the negation of her inherent rights. It is a specially liberal feature of Islam, not paralleled in any other religion, that it has fixed women's rights in the matter of marriage with magnanimity. Abu Hanifah's rules of marriage are *par excellence* inspired by this spirit. It is a result of this that the other *imams*, where they disagree with him, seem to err on the side of injustice.

Let me, by way of illustration, take the question of *khal'*, which is a counterpart of divorce. All the *imams* are agreed that, just as a man has been given the right of divorce, a woman has the right to get a dissolution of marriage for a consideration, that is, on giving something by way of compensation. There is, however, a difference of opinion as to the form of the consideration. Abu Hanifah holds that, if the fault is the wife's in that it is her behaviour which is the case of estrangement, then she should give the husband by way of compensation a sum equal to her dower and that it would be improper for the husband to demand a higher sum. If, however, the fault lies with the husband, then the wife is entitled to release from the marriage bond without paying any compensation, and it would, indeed, be improper on the husband's part to ask for compensation. Shafi'i and Malik, on the other hand, are of opinion that the husband may claim as much compensation as he likes

and compel the wife to pay it, even if he is in the wrong—which is obviously unjust.

The last broad question is that of the rites of marriage. The rites are intended to achieve two objects : first, verification of the parties' consent and, second, giving publicity to the factum of marriage. Abu Hanifah prescribes rites eminently suitable for the achievement of these objects, viz., first, that the parties should utter such words as clearly signify that they consent to the contract and, second, that the contract should be entered into in the presence of two witnesses. These are simple conditions which can be fulfilled in practically any circumstances. Some other *imams,* however, prescribe conditions so stringent as to be extremely difficult to fulfil. Shafi'i, for example, insists that the witnesses should be just, and the definition of "just" that the *mujtahids,* and especially Shafi'i, give is such as fits hardly one in a thousand persons. With such a condition imposed, a fully legal marriage would be extremely rare, if not non-existent. Furthermore, Shafi'i and Ahmad b. Hanbal consider it essential for the witnesses to be men; but Abu Hanifah thinks women also to be qualified, which is the more reasonable view. Again, Shafi'i maintains that a verbal formula specifically pertaining to the marriage contract must be used, although there is nothing to be gained by such a formula and the form of words relating to contracts like gift, transfer of ownership, etc., should do.

One more distinguishing characteristic of Hanafi *Fiqh* is the liberal rights it grants to *dhimmis,* that is to say non-Muslims living under the protection of an Islamic State. Preservation of the rights of *dhimmis* finds mention in many of the Lawgiver's own directives; but since these are directives of a general nature and some other pronouncements of his seem to be at variance with them, they were interpreted in different ways. There is, however, no doubt that Abu Hanifah's interpretation of them is the correct one. Islam ruled over vast territories, in which there lived hundreds of non-Muslim groups, the proper preservation of whose rights was a *sine qua non* of peace and order. No non-Islamic government in history has granted to peoples who were not co-religionists of the ruling

race rights as liberal as those granted by Abu Hanifah to *dhimmis.* Europe, which is proud of its systems of law and justice, may boast of such liberality, but can produce no practical example of it. So far as Abu Hanifah's laws relating to *dhimmis* are concerned they were actually in force under all Islamic governments and were an important part of the fundamental rights of the subjects. An outstanding example is provided by the treatment accorded to non-Muslims in Harun al-Rashid's vast empire.

The biggest question in this connection is that of murder and retribution for it. In Abu Hanifah's opinion the blood of *dhimmis* is equal in sanctity to that of Muslims : he holds that , if a Muslim murders a *dhimmi* , he must be put to death in return, and if it is a case of killing in error, then the same blood-money must be paid as is payable by a *dhimmi* for killing a Muslim in error.

Razi in his *Manaqib al-Shafi'i* jibes at the Hanafis, saying that for them the blood of Abu Bakr has the same value as that of a *dhimmi,* so that if Abu Bakr were to kill a *dhimmi* he would, according to them, be liable to be punished with death. The Hanafis have nowhere put forward this proposition, which has been invented by Razi himself by way of a *reductio ad absurdum.* However, I as a Hanafi proudly accept it; for under a just regime king and beggar, the elect and the rejected, have the same status, and it is a proof of Islam's broad-mindedness that it puts ruler and ruled on the same footing. Razi had no reason to be ashamed of this fact.

Let us look at the precepts and examples of the Companions on this subject. 'Ali said: "The blood of *dhimmis* is our blood, and mulct is payable to them as much as to us." All the other Companions, whether *Muhajirs* or *Ansar,* avowed the same sentiment and acted on it. When 'Umar was wounded, his son 'Ubaid-Allah put two unbelievers to death on suspicion. 'Uthman, as soon as he acceded to the caliphate, sent for the *Muhajirs* and the *Ansar* and consulted them about this incident. They unanimously declared 'Ubaid-Allah deserving of being put to death.

Abu Hanifah's other laws about *dhimmis* were similarly

generous. They were to have the same freedom to trade as was enjoyed by the Muslims and would be liable to taxes in the same way as the Muslims. The *Jizyah,* which was a poll-tax levied in return for protection, was to be fixed in accordance with each payer's capacity to pay, so that poor *dhimmis* would be exempt from it and if a *dhimmi* died without paying the *Jizyah* levied on him it would be written off. Disputes between *dhimmis* about secular transactions would be settled according to their laws. Thus to take an extreme case, if a fire-worshipper married his own daughter, the Islamic government would accept the marriage as valid, since it was in accord with the laws of his community. The testimony of *dhimmis* would be admitted in law suits between them. *Dhimmis* would be free to go into the interior of the Ka'bah, settle at Mecca and Medina, enter all mosques without let or hindrance, and build their places of worship anywhere except in new cities founded by Muslims. If they chose to side with the Muslims, in wars against hostile infidels, the Muslim commander could trust them and take all sorts of help from them.

There are many other laws framed by Abu Hanifah in respect of *dhimmis* which show that in all matters he invested them with rights equal to those of Muslims. In fact, in certain matters he carried this liberality beyond the limits of moderation, as, for example, on the question as to when a *dhimmi* could be considered to have violated his covenant with the Islamic State and forfeited his status as a citizen of it. He maintained that, unless the *dhimmis* had a fighting force at their disposal and pitched themselves against the government, they did not forfeit their rights of citizenship. For instance, if a *dhimmi* refused to pay *Jizyah* or committed adultery with a Muslim woman or spied for infidels or induced a Muslim to abjure Islam or uttered a blasphemy against God or the Prophet, he rendered himself liable to punishment, but would not be considered as a rebel or a traitor and would not forfeit his citizenship rights.

Let us now look at the precepts of the other *imams* in regard to these matters. According to Shafi'i, if a Muslim voluntarily killed

an innocent *dhimmi,* he would be exempt from retribution except that he would have to pay *diyah* (weregild), which would be one-third (according to Malik, one-half) of the blood-money payable for a Muslim. In regard to trade Shafi'i made the discriminatory proposal that, unlike a Muslim, a *dhimmi* would have to pay a new tax every time he carried commercial goods from one city to another. As for *Jizyah,* Shafi'i maintained that it could in no circumstances be less than an ashrafi and that no *dhimmi,* no matter whether old, blind, crippled, poor or a hermit, should be exempt from it. In fact, according to one account, Shafi'i ruled that a *dhimmi* incapable of paying *Jizyah* on account of poverty had no right to stay in Islamic territory. The tribute fixed in 'Umar's time could be increased, but not decreased in any circumstances. The testimony of *dhimmis* was not admissible, even in disputes between them, on which Malik agreed with Shafi'i. A *dhimmi* could not enter the Ka'bah, nor could he settle at Mecca or Medina. As regards entering common mosques, according to Shafi'i, a *dhimmi* could do so with permission, while, according to Malik and Hanbal, he could not do so in any circumstances. Nowhere in Islamic territory, according to all the *imams* other than Abu Hanifah, could *dhimmis* build their places of worship.

As *dhimmis* could not be trusted, they were to be debarred from serving in the Muslim army. If a dhimmi murdered a Muslim or committed adultery with a Muslim woman, he forthwith forfeited all his rights; and was to be regarded as a belligerent unbeliever. These rules pertained to Christians and Jews only. As regards idolaters, they could not, according to Shafi'i, be permitted to reside in Islamic territory, even if they were willing to pay *Jizyah.*

So harsh were these dispensations that even the weakest of subject peoples could not be expected to tolerate them, and that was why the *madhhabs* of Shafi'i and like-minded *imams* became outdated with the expansion of the Muslim Empire. In Egypt, it is true, the Shafi'i *madhhab* was the statutory law for some time; and consequently, during that time, there were frequent rebellions on the part of Christians and Jews.

generous. They were to have the same freedom to trade as was enjoyed by the Muslims and would be liable to taxes in the same way as the Muslims. The *Jizyah,* which was a poll-tax levied in return for protection, was to be fixed in accordance with each payer's capacity to pay, so that poor *dhimmis* would be exempt from it and if a *dhimmi* died without paying the *Jizyah* levied on him it would be written off. Disputes between *dhimmis* about secular transactions would be settled according to their laws. Thus to take an extreme case, if a fire-worshipper married his own daughter, the Islamic government would accept the marriage as valid, since it was in accord with the laws of his community. The testimony of *dhimmis* would be admitted in law suits between them. *Dhimmis* would be free to go into the interior of the Ka'bah, settle at Mecca and Medina, enter all mosques without let or hindrance, and build their places of worship anywhere except in new cities founded by Muslims. If they chose to side with the Muslims, in wars against hostile infidels, the Muslim commander could trust them and take all sorts of help from them.

There are many other laws framed by Abu Hanifah in respect of *dhimmis* which show that in all matters he invested them with rights equal to those of Muslims. In fact, in certain matters he carried this liberality beyond the limits of moderation, as, for example, on the question as to when a *dhimmi* could be considered to have violated his covenant with the Islamic State and forfeited his status as a citizen of it. He maintained that, unless the *dhimmis* had a fighting force at their disposal and pitched themselves against the government, they did not forfeit their rights of citizenship. For instance, if a *dhimmi* refused to pay *Jizyah* or committed adultery with a Muslim woman or spied for infidels or induced a Muslim to abjure Islam or uttered a blasphemy against God or the Prophet, he rendered himself liable to punishment, but would not be considered as a rebel or a traitor and would not forfeit his citizenship rights.

Let us now look at the precepts of the other *imams* in regard to these matters. According to Shafi'i, if a Muslim voluntarily killed

an innocent *dhimmi,* he would be exempt from retribution except that he would have to pay *diyah* (weregild), which would be one-third (according to Malik, one-half) of the blood-money payable for a Muslim. In regard to trade Shafi'i made the discriminatory proposal that, unlike a Muslim, a *dhimmi* would have to pay a new tax every time he carried commercial goods from one city to another. As for *Jizyah,* Shafi'i maintained that it could in no circumstances be less than an ashrafi and that no *dhimmi,* no matter whether old, blind, crippled, poor or a hermit, should be exempt from it. In fact, according to one account, Shafi'i ruled that a *dhimmi* incapable of paying *Jizyah* on account of poverty had no right to stay in Islamic territory. The tribute fixed in 'Umar's time could be increased, but not decreased in any circumstances. The testimony of *dhimmis* was not admissible, even in disputes between them, on which Malik agreed with Shafi'i. A *dhimmi* could not enter the Ka'bah, nor could he settle at Mecca or Medina. As regards entering common mosques, according to Shafi'i, a *dhimmi* could do so with permission, while, according to Malik and Hanbal, he could not do so in any circumstances. Nowhere in Islamic territory, according to all the *imams* other than Abu Hanifah, could *dhimmis* build their places of worship.

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It must be admitted that in books of Hanafi *Fiqh* there are to be met with certain rules about *dhimmis* which beem to stem from intolerance and undue discrimination. Since these have been set forth in such a manner as to convey the impression that they were framed by Abu Hanifah himself, this has given occasion to non-Muslims to attack the Hanafi *madhhab* and, in fact, Islam itself. In the *Hidayah,* for example, it is laid down that *dhimmis* must not emulate Muslims in dress and personal appearance, move about on horseback or carry weapons and that they must, as a distinctive mark, wear a *zunnar* (sacred thread) and make a mark on the outside of their houses to show that they are non-Muslims. The purpose of these enjoinments, according to the author of the *Hidayah,* was to humiliate the *dhimmis,* which was considered necessary. The *Fatawa'-i-'Alamigiri* contains directives even harsher than these. All such rules, however, are inventions of later jurists, and Abu Hanifah is not to blame for them. What we have on his authority is only this that they should wear *zunnar*[10] and use saddles of a particular kind which resembled in shape the inverted palm of the hand.[11] Abu Yusuf made a few additions to these rules, viz. that *dhimmis* should take care not to resemble Muslims in appearance, dress and mount, should wear tall caps, should have a round piece of wood fixed to the front of their saddles and should use shoelaces of a distinctive kind, and that their women should not ride litters. Abu Yasuf's explanation is that these rules were introduced by the Caliph 'Umar, whom he quotes as expressing the wish that the appearance of *dhimmis* should be different from that of muslims.

'Umar was undoubtedly the author of these rules, but it is an error to attribute to him any intention of humiliating the *dhimmis*– an error which many writers of later periods committed. It was a matter of personal taste with 'Umar that he liked the different communities to be distinguishable from each other. For example, he several times sent instructions to his soldiers that they should not give up basking in the sun during winter, never use stirrups in

10. Imam Muhammad, *Jami' al-Saghir.*
11. See Qadi Abu Yusuf, *Kitab al-Khuraj.*

mounting, and should always wear garments made of coarse cloth. The purpose behind these instructions was to make sure that the Arabs retained their national characteristics. I was with the same purpose in view that he instructed the 'Ajamis (Persians) who had embraced Islam not to lose their indigenous traits. Before the advent of Islam the 'Ajamis used to wear *zunnars* and tall caps,[12] their saddles resembled modern European saddles, and their women never used camels as mounts. It was these characteristics which 'Umar ordered *dhimmis* to retain. Abu Hanifah and Abu Yasuf kept his orders intact, and in doing so they were motivated by the same desire to see Muslims and non-Muslims, Arabs and non-Arabs, following their own traditional customs in dress, appearance and transport.

Abu Hanifah is at one with the other *imams* in prohibiting *dhimmis* from buiding their places of worship in Muslim cities; but his object was only to guard against breaches of the peace, for the Muslims, being mostly Arabs and unused to the sound of the prayergong, might have been annoyed by the *dhimmis'* practices of worship into creating trouble. The prohibition, in fact, did not affect the *dhimmis* very much, as there were hardly three or four cities in the whole Muslim world that had been founded by Muslims, the rest of the cities having been founded by non-Muslims, who, of course, were free to build their places of worship in the latter It actually remained in force only as long as there was danger of communal disturbances. As soon as the danger passed away, it was lifted. Thus, in Baghdad, an Islamic city *par excellence*, hundreds of churches were built.

One great quality of Abu Hanuifah's work as a lawmaker is that on directives derived from *nusus* (texts) about which the *imams* disagree Abu Hanifah's stand is the most rational and supported by the most cogent arguments. As the word *nass is* used in connection with both the Qur'an and the *Hadith,* even those directives are called *nassi* which are established on the basis of *Hadith* and not the Qur'an. I, however, do not propose to discuss

12. It was the the same kind of cap that the Caliph Mansur complelled his courtiers to wear : the historians say that he did so in imitation of the Persians.

them for several reasons. In the first place, directives of this kind are so innumerable that there is no space in this book for even the smallest cross-section of them; and if I were to mention a few of them by way of illustration, I might give occasion for the suspicion that I had made a tendentious selection. In the second place, it is not possible for anyone today to settle the issues involved in the manner of a *mujtahid*. The most controversial question about Traditions is that of their soundness and correctness, and it is this question which has created sharp divisions between the *imams* in their juristic dicta. One *imam* may consider a Tradition arguable, while another may not. The material available in our country is not adequate for the settlement of these differences. The biggest problem is presented by the names of authorities. The books on this subject available in our country, such as the *Tahdhib al-Kamal* of Mizi, the *Tahdhib al-Tahdhib,* the *Mizan al-I'tidal,* the *Tabaqat al-Huffaz* and the *Tahdhib al-Asma' wa'l-Lughat,* quote sayings of the *imams* about *jarh* (invalidation) and *ta'dil* (rectification), but without quoting the chain of authorities, with the result that no decision can be made about their authenticity. Apart from this, most of the invalidating comments, including some that have been explained, are ambiguous. These issues could certainly be decided with the help of the writings of the ancients, but I have not been able to get hold of them. Hanafi scholars have written a large number of books to prove that the rules of Hanafi *Fiqh* are derived from valid Traditions, and anyone interested in pursuing the subject further may consult them.

Much of this controversy can be settled by reference to the Qur'an, whose authority is beyond question. The only debatable point that then remains is whether deductions from Qur'anic texts have been made correctly or not. The rules of Hanafi *Fiqh* supported by Our'anic texts are not small in number, and all these are concerned with important questions of *Fiqh.* Reference to the Qur'an thus easily establishes the superiority of the Hanafi system of *Fiqh* to the other systems and that of Abu Hanifah as a *mujtahid* to the other *imams;* for *ijtihad* consists mosly in deducing correct propositions from the basic texts.

Although, in the light of what I have just said, it would be enough for my purposes to deal with those of the Hanafi rules of law which are supported by the Qur'an; yet a brief discussion of their relation to *Hadith* seems called for in order to correct a common misconception about this. Some people think that many of Abu Hanifah's rules are contrary to valid Traditions. While a number of these people charge Abu Hanifah point-blank with having deliberately set *Hadith* at naught, others, more fair-minded, put forward in his favour the condoning fact that up to his time Traditions had not been scientifically compiled, with the result that he had no access to many of them. The charge is not worth rebutting; as regards the explanation, it is simply preposterous. It is true that Traditions had not been compiled up to Abu Hanifah's time; but how was it that after they had been compiled leading traditionists continued to accept Abu Hanifah's enunciations as correct? Waki' b. al-Jarrah, from whom a large number of Traditions have been quoted in Bukhari's *Sahih* and whom Ahmad b. Hanbal used to describe as the man with the best memory that he had ever met, followed Abu Hanifah's rules. Khatib Baghdadi in his biographical note on him writes: "He used to give *fatwas* in accordance with Abu Hanifah's dicta."[13] Yahya b. Sa'id b. al-Qattan, the founder of the art of *jarh* and *ta'dil,* followed Abu Hanifah on many questions, as he himself admits.[14] Tahawi, a *hafiz* of *Hadith* and a *mujtahid,* began as a Shafi'ite, but later adopted Abu Hanifah's views, although he used to say that he was not a follower of Abu Hanifah's but only happened to agree with him. Tahawi, being a contemporary of Bukhari and Muslim, lived at a time when the compilation of Traditions had been completed. Among the scholars of later periods Mardini, Zaila'i, Ibn al-Hummam and Qasim b. Qatlubagha, men whose breadth of vision is beyond question, were supporters of Hanafi thinking.

Then there is the question why some men who are reputed to have known *Hadith* by heart agreed with Abu Hanifah on many questions. In the first rank of these was that greatest of *muhaddithin,*

13. Ibn Jazlah, *Mukhtasar Ta'rikh Baghdad,* note on Waki' b. al-Jarrah.
14. Hafiz Ibn, Hajar *Tahdhib al-Tahdhib,* note on Abu Hanifah.

Ahmad Hanbal, whose disciples Bukhari and Muslim were proud to have been and about whom there is a common saying of *muhaddithin:* "What Ahmad Hanbal does not know for a *hadith* is not one," disagrees with Shafi'i and agrees with Abu Hanifah on many questions. "Leave aside details and minor questions," writes Khwarazmi; "so far as fundamental questions of *Fiqh* are concerned, Ahmad Hanbal is at one with Abu Hanifah and differs with Shafi'i." I have examined this statement with reference to a large number of such questions and found it to be true. Sufyan Thauri, who is generally acknowledged as an *imam* of *Hadith,* was in agreement with Abu Hanifah on many points of law. "By God," Abu Yusuf used to say, "Sufyan follows Abu Hanifah more than I do." There are many rulings of Sufyan to be found in Tirmidhi's *Sahih* which are in accord with Abu Hanifah's and opposed to Shafi'i's.

The misconception that Abu Hanifah's juristic formulations ran counter to the *Hadith* owes its origin largely to a statement made to that effect by some *muhaddithin* as, for example, Bukhari and Ibn Abi Shaibah. The latter wrote a whole chapter in refutation of Abu Hanifah's legal theories, but that does not justify the misconception. Many *imams* have found fault with each other. For example, Shafi'i, who was a faithful disciple of Malik's and used to say: "There is no book under the sky which is more correct than Malik's *Muwatta',"* wrote a treatise in rebuttal of Malik, the thesis of which is that many of Malik's legal rulings are contradictory to valid Traditions. Razi has quoted the preface to this treatise in his *Manaqib al-Shafi'i,* and I have read it. Laith b. Sa'd, a well-known *muhaddith,* used to say: "Malik has gone against *Hadith* on seventy questions, and I propose to write to him about this." Shafi'i himself did not escape this charge and there was no reason why he should, for his stand is evidently wrong on many questions, for example, *jahr bi-ismillah* (uttering the *bi-ismillah* aloud, *qunut al-fair* (standing long in silence during the morning prayer), *taurith dhawi'l-arham* (inheritance by distant relatives). The fact, however, is that these are matters of personal judgment, and we cannot on the basis of them condemn a jurist as opposed to *Hadith.* It is not necessary that if one *muhaddith* regards a *hadith* as valid, another should do the same.

Having disposed of the question whether Abu Hanifah deliberately went against *Hadith,* I come to the question of deduction and reasoning, on which it is seldom possible for the *mujtahids* to be unanimous, following as they do different rules in this behalf. I have gone through Bukhari's *Juz' al-Qira'at* and the reference to Abu Hanifah in his *Sahih.* In both of them he alleges that Abu Hanifah's *madhhab* is opposed to *Hadith.* But the fact of the matter, as I have found on comparing Abu Hanifah's *fatwa* on the subject with these writings of Bukhari, is that the *fatwa* is not opposed to *Hadith* but to Bukhari's understanding and judgment.

Abu Hanifah's reasoning about the reading of the surah of Fatihah is based on the *ayat* : "When the Qur'an is recited, listen to it in silence." Bukhari says in the *Juz' al-Qir'at* that the *ayat* was revealed in respect of the *khutbah* (sermon) and is not connected with *salat.* This is an astounding statement which I could never have believed to have been made by Bukhari, had I not read his *Jaz' at-Qir'at.* It is established by scores of Traditions that the *ayat* in question was revealed in connection with prayer. Even if we accept Bukhari's statement as correct, it does not follow from it that the *ayat* does not apply to prayer: it is common knowledge that the fact of an *ayat* having been revealed on a particular occasion does not detract from its general applicability.

While Abu Hanifah rules that *amin* must be said *sotto voce* by both the *imam* and the *muqtadis,* Bukhari holds that it should be said aloud, and he bases this view on the Prophet's direction that when the *imam* pronounces *"wala'd-dallin,"* the followers should say *Amin.* But in this Tradition there is no mention of *Amin* being said aloud, and so far as the mere saying of *amin is* concerned, Abu Hanifah does not deny that it is enjoined. Abu Hanifah maintains that ablution with date-palm juice, provided that it is not intoxicating, is permitted. Bukhari writes a whole chapter against this, basing his arguments on the *hadith*: "All intoxicating liquors are prohibited."

Abu Hanifah holds that it is not necessary for a *muqtadi* to read the *Surat al-Fatihah,* but Bukhari holds it as necessary and

says in his *Jami'_al-Sahih*: "The reading (of the surah) is compulsory for both *imam* and *muqtadi* during every prayer, whether the prayer is performed at home or during a journey and whether aloud or *sotto voce.*" In support of this, Bukhari puts forward two traditions. One is about a complaint made by the Kufans to 'Umar against Sa'd b. Waqqas that he did not even know how to perform his prayers, as a result of which 'Umar removed him from office and appointed 'Ammar in his place. The tradition goes on to say that, when 'Umar summoned Sa'd and informed him of the complaint, Sa'd replied: "By Allah, I used to perform my prayers with them exactly in the Prophet's style: in my *'isha'* prayers I used to stand for a long time during the first two *rak'ahs* and for a short time during the last two."

How does this tradition prove that the reading of the *Fatihah* is obligatory? Even if one tries to prove that it is with the help of the interpretation made by Ibn Hajar and others, how does it follow from that that Abu Hanifah contradicted *Hadith* in this matter? In truth, it is a grave error to think that a *mujtahid* had had no access to Traditions bearing on any rule of law. The differences of opinion are the inevitable result of variations in the criteria applied to appraise the soundness of Traditions, in the reasons for the deductions made and in the method of ratiocination employed.

Let me now revert from this diversion to my main argument. I claim that the only correct and workable interpretation of those verses of the Qur'an from which rules of *Fiqh* have been deduced is the one made by Abu Hanifah . As there are more than a hundred such verses, it is not practicable for me to deal with all of them. I, therefore, content myself with a brief statement of some of them, which will enable the reader to form a general idea.

Abu Hanifah holds that there are four obligatory acts involved in ablution. Shafi'i adds to this number two, namely, *niyyat* (intention) and *tartib* (order of succession), for which Malik substitutes *muwalat* (continuity). Ahmad Hanbal thinks that before performing ablution it is necessary to say *bi-ismillah* and that, if this is intentionally omitted, the ablution is invalidated. Abu Hanifah

argues that in the relevant Qur'anic verse only four acts have been stated as obligatory and that, therefore, no act outside these can be such. *Niyyat, muwalat* and *tasmiyah* (speaking God's name) find no mention in the verse. As regards *tartib,* a presumption could be said to have been raised by the occurrence of the conjunction *waw,* but Arabic scholars have unanimously decided that the conjunction does not connote anything like the order of succession. Razi in the *Tafsir Kabir* puts forward a number of arguments to prove that *tartib* is obligatory, but these are no more than personal constructions of his. His first argument is that in the clause *"faghsilu wajuhakum"* the letter *"fa"* is intended to signify succession in time, which proves that it is obligatory to wash the face first and that, since in regard to one act an order of succession is established, it should apply to the other acts too. Razi's second argument is that the direction about ablution is contrary to reason and that, therefore, it should be carried out in the same order as the direction itself. What these arguments are worth is too clear for there being any need to rebut them.

Abu Hanifah asserts that touching a woman does not vitiate ablution. Shafi'i disagrees with this, relying upon the following verse: "If you are sick or on a journey or come out of the privy[15] or have touched a woman and you can get no water, then perform *tayammum* (ablution with clean sand)." Abu Hanifah explains that touching a woman is intended to mean having sexual intercourse, in accordance with the common Qur'anic method of not mentioning such matters openly and directly. An interesting thing to note is that the word "*mass*" used in this verse, which primarily means "touch," has been used in the sense of sexual intercourse in the *ayat "malam tamassu hunna";* and Shafi'i himself admits this. To take the word " touching" in its literal and primary sense is, in fact, an error which no native speaker of Arabic could commit. There is also the word *gha'it* in the verse in question. All *mujtahids* interpret it metaphorically: for, taken literally, it would render it necessary for anyone coming from a lower place to a higher to perform

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ablution. In holding that touching a woman vitiates ablution Shafi'i seems to me to have relied, not on the above-quoted verse, but on some Tradition, and it is probable that the arguments attributed to him were actually advanced by his followers with the object of rebutting the Hanafi view.

Abu Hanifah maintains that with a single *tayammum* one can perform several obligatory rites, but Shafi'i thinks that for every rite a new *tayammum* is necessary. The argument Abu Hanifah advances is that the directive about *wudu* applies equally to *tayammum* and, since a new ablution is not necessary for every prayer, a new *tayammum* is not necessary either. He, however, concedes that those who hold that with a single ablution several prayers cannot be offered can logically apply this rule to *tayammum* as well. He seen no reason for making a distinction between *wudu* and *tayammum* in this regard.

It is Abu Hanifah's view that, if a person who has performed *tayammum* finds water while he is offering his prayer, the *tayammum* becomes void. Malik and Ahmad Hanbal are opposed to this view. The argument Abu Hanifah puts forward is that *tayammum* has been permitted in the Qur'an subject to the condition that water is not available and that the permission is cancelled as soon as the condition ceases to be fulfilled.

Abu Hanifah maintains that the *takbir-i-tahrimah* (the formula of glorification) is not an integral part of the ritual of prayer and that it is permissible to say the *takbir* in Persian. Shafi'i and others disagree with this. Abu Hanifah's arguments are that in the verse which is adduced to prove the obligatory nature of the *takbir*, viz. *"wa dhakarasma Rabbihi fasalla,"* there is no mention of any particular language and that, since the *"fa"* of *"fasalla"* denotes posteriority in time, the prayer has necessarily to follow the *takbir*, from which it is clear that, although the *takbir is* obligatory, it is no part of the prayer itself but is a separate act.

In Abu Hanifah's opinion it is not necessary for a *muqtadi* to recite the *Fatihah*, while in that of Shafi'i and Bukhari it is. Abu

Hanifah bases his opinion on the verse: *"wa idh quri' al-Qur'an fastami 'u lahu wa'nsitu"* (when the Qur'an is recited, listen and remain silent). The direction not to recite the *Fatihah* can be deduced from this verse, not only in respect of silent prayers, but also in respect of loud prayers; in fact, so far as the latter are concerned, the verse is an authentic and imperative text, which cannot be explained away. It is surprising that the Shafi'is have advanced arguments based on Traditions against such a clear and unmistakable text, although the Traditions contradict each other on this point, there being as good ones in favour of non-recitation as there are in favour of recitation. Bukhari has written a whole treatise on the subject, in which he has tried to counter the deduction made by Abu Hanifah from the verse in question, but the counter-arguments advanced by him are really surprising.

Let me next take up the Qur'anic verse: "There is nothing prohibited for you by God except corpses, blood, pig-flesh and that over which some name other than God's has been spoken; but it (i.e. the use of even these things) is not a sin for one who is under compulsion (to use them), provided that he is not disobedient and immoderate." There is much divergence of opinion among the *mujtahids* about the points of law deducible from this verse. The correct interpretation of the verse is the one made by Abu Hanifah.

The first controversial point that arises is about the meaning of "corpse". Abu Hanifah takes the word to mean what it does in common parlance, but Shafi'i stretches its meaning to include even the wool and bones of dead animals and so declares the use of articles like fur to be prohibited. Malik permits the use of wool, fur and skin, but prohibits the use of bones. Since the meaning adopted by Shafi'i and Malik was obviously wrong, their disciples found it necessary to offer explanations. "Bones can be described as dead," says Razi in the *Tafsir Kabir*, "because God says in the Qur'an, 'Who will quicken bones?' and only that can be quickened which has died. In the same way God speaks of land as dead." This is a surprisingly naive explanation. Rules of law cannot be deduced

from literalist interpretations of this kind. Razi, having proved land to be dead on the authority of the Qur'an, should logically have gone on to declare the use of land and earth to be prohibited.

The second point of disagreement is the meaning of blood, which God has declared as prohibited. Abu Hanifah takes it to mean spilled blood and, accordingly, considers the blood of fish to be unprohibited. According to Shafi'i, all kinds of blood are prohibited without qualification. Abu Hanifah argues in reply that God has Himself made exceptions, as, for example, in the verse: *"Qul la ajidu fima uhiya ilayya muharraman 'ala ta'imin yat 'amuhu illa an yakuna maitatan au daman masifuhan"* (Say: In what has been conveyed to me by the *wahi* I find nothing forbidden for any eater to eat except carrion or flowing blood). In this verse the epithet *masfuh* (spilled) limits the meaning of blood.

The third point of controversy is the meaning of *baghin wa 'adin* (disobedient and immoderate). According to Abu Hanifah, it is necessary that there should be no disobedience and immoderation in eating and drinking : thus, if a person is on the brink of death for want of food and the only food available to him is carrion and pig-flesh, then he is permitted to eat them, subject to two conditions: first, that he eats no more of them than is necessary to save his life and, second that he does not snatch them from some other person similarly in dire need of them. Shafi'i interprets *baghawat* and *'idwan* to mean rebellion against the ruler and sinfulness. Thus, according to Abu Hanifah, if a Muslim, who is in rebellion against his ruler, is on the point of death because of starvation, it is permissible for him to eat the quantity of carrion or pig-flesh necessary to save his life. According to Shafi'i, on the other hand, this is permissible only if the Muslim in question is not a rebel. The meaning attached by Shafi'i to the two words, in the first place, does not fit in with the context and, in the second, is contrary to the principles of the *Shari'ah.* The permission given by the *Shari'ah* in cases of necessity is not nullified by the commission of a crime or a sin. For example, lying, although it is a sin, has been permitted when it is necessary to save one's life. Can it be said that a

sinner cannot take advantage of this permission? If a Muslim, by being a rebel, forfeits the benefit of the permission to eat prohibited food to save his life for the reason that it is better to let him die, then what was the need for denying him prohibited food alone? He should be debarred from eating permitted food as well.

Apart from these textual questions, Abu Hanifah propounds a hypothetical question on the basis of analogy, on which Shafi'i joins issues with him. The question is this: if a man is dying of thirst and has nothing to drink but wine, is he permitted to drink it? Abu Hanifah says that he is, while Shafi'i says that he is not. Shafi'i's ruling is surprising in view of the fact that he is not opposed to analogical inference like the literalists. Since the situation posed in the question is similar to the one clearly stated in the Qur'an in that the object in both cases is to save life, why should not the same directive apply to both?

No other *mujtahid* has interpreted the Qur'anic injunctions about crimes as correctly as Abu Hanifah has done. Let me take murder for an example. The rules relating to retaliation for murder that were prevalent in pre-Islamic Arabia were extremely iniquitous and barbarous. Islam substituted for them a set of laws which have not been surpassed for fairness.

In pre-Islamic times retaliation was determined with reference to the status of the murderer and the murdered person. A powerful tribe exacted it by killing a free man of the murderer's tribe for a slave of its own killed, a man of the murderer's tribe for a woman of its own killed, and two men of the murderer's tribe for a man of its own killed. God laid down a general rule, according to which the murderer was to be put to death in every case, no matter whether he was highborn or lowborn, man or woman, free man or slave, Muslim or *dhimmi.* For greater clarity, He abrogated the forms of retaliation prevalent before Islam. Thus: "Retaliation for those murdered is ordained for you as a duty—a free man for a free man, a slave for a slave and a woman for a woman."

In pre-Islamic times murder could be compounded on payment

of monetary compensation, which was called *diyat*. Islam restricted this to cases of suspected murder or involuntary killing and fixed the same *diyat* for Muslims and *dhimmis*. "It does not become a Muslim," says the Qur'an, "to kill another Muslim except in error; if a man kills a Muslim in error, he shall set free a Muslim slave and pay *diyat* to the relations of the man killed; and if the man killed belongs to a tribe with whom you have a treaty, then you shall pay *diyat* to his relations and also set free a Muslim slave."

Abu Hanifah accepts these unmistakably clear orders of the Qur'an, but Shafi'i disagrees with him about some of the rules deducible from them—wrongly, I regret to say.

The first point of difference is this that while, according to Abu Hanifah, a free man may be killed in retaliation for the murder of a slave. Shafi'i thinks that this is not permissible, and Malik and Ahmad Hanbal agree with him. The Qur'anic text provides no justification for this kind of inhuman discrimination. If Shafi'is view is based on the specific statement made in the phrase "a free man for a free man," then the equally specific statement made in the phrase "a woman for a woman" could be so interpreted as to imply that a man should not be killed for a woman murdered–a position which nobody would accept.

The second point on which Shafi'i differs with Abu Hanifah is that, while the latter thinks that the same *diyat* is payable for a *dhimmi* as for a Muslim, the former thinks that the *diyat* payable for a *dhimmi* is less than that payable for a Muslim. Shafi'i seems to disregard the fact that God has used the same words in respect of those to whom Muslims are bound by treaties as He has used in respect of Muslims themselves. It is a proof of Islam's liberality that it has conferred equal rights on Muslims and *dhimmis*. What a pity that people have misconstrued its liberal directives!

The third point of disagreement is that Shafi'i considers, and Abu Hanifah does not consider, monetary compensation as sufficient requital for murder, that is to say, wilful killing, although the Qur'an prescribes retaliation and forbids *diyat*–a dispensation

which is in consonance with reason. In pre Islamic times homicide was a civil wrong which could be redressed with monetary compensation. Islam could not endorse an error of this kind.

The fourth point of disagreement is that according to Shafi'i it is, and according to Abu Hanifah it is not, essential for the killer to be put to death by the same method as he himself employed, e.g. breaking the head with a stone or burning alive. No word in the Qur'anic text suggests anything like this.

The fifth difference of opinion between Shafi'i and Abu Hanifah is that, while the former considers both retaliation and atonement necessary in case of a murder, the latter considers retaliation to be enough. In the Qur'an atonement is ordered specifically in respect of involuntary homicide and is nowhere mentioned in respect of murder.

Abu Hanifah and Shafi'i are at variance with each other about some important orders relating to inheritance also. Abu Hanifah's stand is in accord with the clear precepts of the Qur'an. Islam's rules of inheritance, which are different from those of all other legal systems, are inspired by a fine appreciation of human relationships, which is a proof of their being divinely ordained. The principle underlying them is that, in the absence of a bequest, the property of the deceased should devolve upon his natural heirs, in proportion to the degrees of their relationship, which is considered, so to speak, as an implied bequest. Allied to this is the economic principle that it is better for wealth to be distributed among a large number of persons than be concentrated in the hands of a single person or a few persons. These principles seem to have been overlooked by other religions, with the result that their rules of inheritance leave much to be desired. Under Christian law the eldest son is practically the sole heir, the other sons getting only some odds and ends. Among Hindus only sons are entitled to inherit, the father or brother or other relations having no entitlement at all. Islam looked closely and realistically into the claims of various people arising from their relationship to the

deceased and, accordingly, fixed three classes of heirs, namely, *dhawi'l-furud* (close relations or sharers), *'asbat* (residuaries) and *dhawi'l-arham (*distant kindred). All these classes have been clearly mentioned in the Qur'an and the *dhawi'l-arham* have been specially mentioned in the following verses: "For men there is a share in what is left behind by their parents or close relatives; and in all property left behind by parents and close relatives. And of those who are relatives some have greater entitlements than others."

Abu Hanifah in framing his rules of inheritance took all the three classes into consideration, but Shafi'i and Malik left out the *dhawi'l-arham* altogether, so that, according, to them, the maternal grandfather, nephews, nieces, etc., are entitled to nothing whatever. They committed the error of treating the *dhawi'l-arham* as a genus and the *dhawi'l-furud* and *'asbat* as its species.

The Qur'an gives many directives about marriage and divorce, on some of which the *mujtahids* disagree with each other. I content myself with mentioning two of the most important.

According to Shafi'i, a woman, even if she has reached the age of discretion, cannot marry without the consent of her guardian, while according to Abu Hanifah she can. Both of them adduce Qur'anic verses and Traditions in support of their points of view. This is no place to discuss the Traditions; but so far as the Qur'an is concerned, Shafi'i bases his claim on the verse: "When you divorce your wives and when the probationary period is over, do not prevent them from taking other husbands." Shafi'i argues that the words "do not prevent" are addressed to guardians, and he concludes from this that the guardians have the right of prevention. In support of this he refers to the occasion for the revelation of the verse, describing it thus: "Ma'qal b. Yasar gave his sister in marriage to his paternal uncle's son, who divorced her after a few days, but repented after the probationary period had expired and wished to remarry her, to which she was agreeable. Ma'qal, however, went to her and forbade the new marriage." It was then that the *ayat* was revealed. I could never have believed that Shafi'i had put

upon this verse the construction that he has done, had I not read it in his book with my own eyes. The first question to consider is whether the verse can have the meaning that Shafi'i attaches to it. It is accepted by everybody that the word *"tallaqtum"* (you divorce them) are addressed to husbands, and once this is accepted it follows that the words *ta'dulu hunna* must also be addressed to them; for, otherwise, the sentence would become incoherent, running thus: "O husbands, when you divorce your wives and when the probationary period is over, then, O guardians for marriage, do not prevent them from taking other husbands." Thus constructed, the sentence is undoubtedly ungrammatical and illogical; for in the adverbial clause the husbands are addressed, but in the main clause they are forgotten and it is the marriage guardians who are addressed. This is no way of speaking. Razi, although a follower of Shafi'i, clearly admits in the *Tafsir Kabir:* "This interpretation is quite wrong : God cannot speak in this incoherent manner." Even if we accepted Shafi'i's interpretation, his reasoning would not be complete, for it is not conceivable that persons prohibited from doing a thing should at the same time be permitted to do it.

Let me now briefly explain the background of the *ayat.* It was customary for men in pre-Islamic times to prevent their divorced wives from remarrying because of aversion to the idea of their former wives cohabiting with other men. It was to abolish this evil custom that the *ayat* was revealed, and its correct translation is as follows: "O husbands, when you divorce your wives and when the probationary period is over, do not prevent them from marrying their husbands (that is to say, the men whom they wish to marry)." This is the meaning that Abu Hanifah attaches to the *ayat,* and he argues from it that women have an independent right to contract marriage. This argument is confirmed by the word *yankihna,* because in this word the act of marrying has been ascribed to women and not to marriage guardians.

The second question at issue relates to three divorces. All the four *mujtahid imams* agree that, if a man pronounces three divorces

at the same time, the divorce becomes finally effective and cases to be revocable. They, however, disagree with one another as to whether giving divorce in this manner is lawful and permissible. Shafi'i thinks that it is and that God has permitted it. Abu Hanifah considers it prohibited and unlawful, and he also regards a man who gives this kind of divorce as a sinner. His argument is that the method of divorce indicated by God is based on the *ayat:* "Divorce is twice; then there is either stopping nicely or revoking or repudiating graciously." It is only by the method laid down in this *ayat* that divorce can be given lawfully. Some people have raised this objection to Abu Hanifah's stand that if it is not legally permissible to give three divorces at a time, then what is the sense in "repudiating," that is to say giving effect to the divorce, especially when Abu Hanifah himself admits that the latter is permissible? This involves a fine point, which this is not the occasion to discuss. However, I may point out that it is one thing for an act to be prohibited and another for it to be effective. For example, it is prohibited for a man to gift his property to his children in unequal shares; yet if an unjust man does so, his gift will be effective.

In concluding the discussion let me make it clear that I do not claim infallibility or finality for Abu Hanifah's legal pronouncements. He was, after all, only a *mujtahid* and not a prophet, and was therefore liable to commit errors, which, in fact, he actually did. This is why many of his close disciples have disagreed with him on many questions. On the period of *rada' at* on the apparent or real effectiveness of the *qadi's* decree, on murder by analogy, on the question of the maximum punishment prescribed being necessarily awardable for prohibited degree marriages Abu Hanifah's *madhhab* does not admit of a reasonable interpretation. The same is true in the case of many other questions. My purpose, however, has been to show that Abu Hanifah was as correct in his opinions as it is possible for a *mujtahid* to be.

Appendix

Abu Hanifah's Disciples

Although in Asian countries there is generally a close relationship between a teacher and his pupils, yet sometimes the names of particular pupils become inseparably associated with their teacher's name for various reasons. As I have stated in the first part of this book, the circle of Abu Hanifah's pupils was so wide as to be conterminous with the Caliph's domain. Abu'l-Mahasin Shafi'i has listed the names and origins of 918 men who were Abu Hanifah's pupils in one way or another. Some of these are so important that brief biographical notes on them are a necessary complement to an account of Abu Hanifah's life and work.

There were forty specially devoted pupils of Abu Hanifah's who collaborated with him in the codification of *Fiqh*. Since this was Abu Hanifah's lifework, the omission to give some account of these men would leave his biography incomplete. Not only are these men intimately connected with the history of Abu Hanifah's own work, but their greatness provides a measure of the greatness of Hanafi *Fiqh* as well as a proof of Abu Hanifah's high rank. Khatib Baghdadi in his account of Waki' b. al-Jarrah reports a conversation about Abu Hanifah which shows how, in the opinion of men who mattered, the greatness of his pupils reflected lustre on him. On one occasion, reports Khatib, when some men of learning were assembled around Waki,' somebody remarked that Abu Hanifah had committed an error on a certain question. "How could Abu Hanifah commit an error?" retorted Waki'. "He had eminent men to assist him—in analogy Abu Yusuf and Zufar; in *Hadith* Yahya b. Za'idah, Hafs b. Ghiyath, Habban and Mundal; in lexicography and the Arabic language Qasim b. Ma'n; in devotion and piety Dawud al-Ta'i and Fadl b. 'Iyad. How could one with such men by his side commit an error? Even if he were going to commit one, would these men let him do so?"

If, as is generally thought, the greatness of his pupils redounds

to the glory of a teacher, then in the whole history of Islam no teacher enjoys more reflected glory than Abu Hanifah. He could rightly claim that some of his pupils were the teachers of great *imams* and *mujtahids*. For example, Shafi'i used to say about Muhammad that he had acquired a "camel-load of learning" from him.[1] This is the same Muhammad who is a well-known pupil of Abu Hanifah's and who spent his whole life vindicating his master. Indeed, some of Abu Hanifah's pupils, especially Abu Yusuf and Muhammad, were scholars of such high rank that if they had claimed to be *mujtahids* in their own rights, hundreds of thousands of people would have accepted their claim and become their followers.

The religious sciences in the ascendant during Abu Hanifah's time were *Fiqh, Hadith, Asma'* and *Asma' al-Rijal*. It is to be noted that the leading authorities in these sciences were all Abu Hanifah's pupils, and not so merely in name, but in actual fact, having sat at his feet for years, which they were proud to acknowledge. Probably nobody will deny this so far as *Fiqh* is concerned, but some people may wonder in regard to *Hadith*, for most of Abu Hanifah's pupils who attained to fame as such were *faqihs*, those of them who are known as *muhaddithin* being famous in their own right and not because they were Abu Hanifah's pupils. In my notes on the various pupils dealt with in this Appendix I shall make specific mention of the disciplines which they studied under Abu Hanifah, and I shall cite authorities from recognised *rijal* works.

It was my intention to write brief notes on those forty of Abu Hanifah's innumerable pupils who were associated with him in the preparation of his *Fiqh* code. Unfortunately, however, I have been able to ascertain the names of only a few of them, namely, Abu Yusuf, Zufar, Asad b. 'Umar, 'Afiyat al-Azdi, Dawud al-Ta'i, Qasim b. Ma'n, 'Ali b. Mus-hir, Yahya b. Zakariya, Habban and

1. Some superficial critics of our day will probably raise their eyebrows at this report and dismiss it as an invention of Hanafi writers. But they should know that the famous *muhaddith* Nawawi has described it as authentic. See his *Tahdhib al-Asma' wa'l-Lughat*, notes on Imam Muhammad.

Mundal.[2] On these I write brief notes. Besides these there are some pupils worthy of mention who were acknowledged masters of *Hadith* and *Rijal*. I begin with the latter.

Muhaddithin

Yahya b. Sa'id al-Qattan. He was the originator of *rijal*. Dhahabi says in the preface to his *Mizan al-I'tidal* that the first man to write on *rijal* was Yahya b. Sa'id al-Qattan and that he was followed by his pupils, Yahya b. Ma'in, 'Ali b. al-Madini, Ahmad b. Hanbal, 'Amr b. 'Ali al-Fallas and Abu Khuthaimah, who in turn were followed by their pupils, such as Bukhari and Muslim.

So high was his standing in *Hadith* that while he lectured Ahmad b. Hanbal, 'Ali b. al-Madini and others stood respectfully in front of him, questioning him on points of *Hadith* from the afternoon prayer, when he started his class, up to the evening prayer.[3] He had worked up so much skill in the verification and criticism of transmitters that *imams* of *Hadith* often used to say that they would rule out any transmitter whom Yahya rejected.[4] There is a famous statement of Ahmad b. Hanbal to the effect that he had not with his own eyes seen the equal of Yahya.[5] Despite all this learning he used to attend Abu Hanifah's lectures and was proud of being a pupil of his. Although the system of *taqlid* (conformity to a particular authority) had not yet crystallised, he followed Abu Hanifah in most matters. He himself admitted that he had derived his views mostly from Abu Hanifah's dicta.[6] Dhahabi, speaking in the *Tadhkirat al-Huffaz* of Waki' b. al-Jarrah, says: "Waki' gave *fatwas* on the basis of Abu Hanifah's sayings; and so also did Yahya Qattan. He was born in 130 H. and died in 198 H. at Basrah.

'Abd-Allah b. al-Mubarak. The traditionist Nawawi writes about him in the *Tahdhib al-Asma' wa'l-Lughat*: "The *imam* on whose

2. The historian Khatib has mentioned these people as Abu Hanifah's pupils in his note on Abu Yusuf.
3. *Fath al-Mughith* and *al-Jawahir al-Mudiyyah*.
4. Ibn Hajar, *Tahdhib al-Tahdbib*, notes on Yahya b. al.Qattan.
5. Dhahabi, *Mizan al-I 'tidal*.
6. Ibn Hajar, *Tahdhib al-Tahdhib*, note on Abu Hanifah.

leadership and greatness there is a general consensus, talk of whom invokes divine grace and love of whom promises salvation."

His standing in *Hadith* can be gauged from the fact that *muhaddithin* used to call him "Commander of the Faithful in *Hadith*". One day a pupil of his having addressed him as *'Alim al-Mashriq* (Scholar of the East), the famous *muhaddith* Sufyan Thauri, who was present, exclaimed: "What do you mean by calling him *'Alim al-Mashriq?* He is *'Alim al-Sharq wa'l-Gharb*[7] (Scholar of both East and West)." Ahmad b. Hanbal asserted that none of 'Abd-Allah b. al-Mubarak's contemporaries had been more sedulous than he in learning *Hadith*. 'Abd-Allah b. al-Mubarak himself claims to have learnt *Hadith* from four thousand masters, of whom one thousand narrated Traditions to him.[8] Thousands of Traditions are recorded in the *Sahihs* of Bukhari and Muslim on his authority, and there is no doubt that he is one of the great masters of *Hadith* transmission. He wrote numerous works on *Hadih* and *Fiqh*, but unfortunately none of them is available today.

His learning and piety earned him a public esteem higher than that enjoyed even by royal personages and State dignitaries. On one occasion, when the Caliph Harun al-Rashid was on a visit to Ruqqah, 'Abd-Allah b. al-Mubarak also arrived there. On hearing of his arrival thousands of people rushed to the town, so that the whole landscape was covered with clouds of dust. A lady of Harun al-Rashid's harem, who was watching the scene from a window, asked in surprise what was happening. She was informed that the " *'Alim* of Khurasan known as 'Abd-Allah b. al-Mubarak" had come to the town. "This is real kingship," exclaimed the lady. Harun al-Rashid's is no kingship; no one comes to him unless brought by soldiers and policemen."[9]

He is one of Abu Hanifah's best-known pupils, who was specially attached to his master and who always acknowledged that he had acquired all that he possessed of knowledge through

7. Nawawi, *Tahdhib at-Asma' wa'l-Lughat*.
8. *Khulasah Tahdhib al-Kamal*, note on 'Abd-Allah b. al-Mubarak.
9. Ibn Khallikan, *Ta'rikh*, note on 'Abd-Allah b. al-Mubarak.

Abu Hanifah and Sufyan Thauri. There is a famous saying of his: "If God had not helped me through Abu Hanifah and Sufyan, I should have been no better than an ordinary man."[10] There are several verses of his in praise of Abu Hanifah which are often quoted. Khatib Baghdadi has quoted some of them in his History. He was a native of Merv, was born in 118 H. and died in 181 H. at Hit.

Yahya b. Zakariya b. Abi Za'idah. He was a famous *muhaddith.* Dhahabi in his *Tadhkirat al-Huffaz,* which comprises accounts of only those men who were known as *hafiz al-Hadith* (those who knew *Hadith* by heart), includes him, placing him at the top of his class. 'Ali b. al-Madini, one of Bukhari's teachers, used to say: "In Yahya learning reached the highest point it reached in his time."[11] In the six *Sahihs* many Traditions are quoted on his authority. He was both a *muhaddith* and a *faqih* being a finished scholar in both disciplines. Thus, Dhahabi in the *Mizan al-I'tidal* begins the note on him with the words: "One of the great *fuqaha'* and acknowleged *muhaddithin.*"

He was one of Abu Hanifah's favourite pupils and spent a long time together with him, so that Dhahabi in the *Tadhkirat al-Hffaz* describes him as "Sahib Abi Hanifah" (a close companion of Abu Hanifah's). He was the leading figure among those who collaborated with Abu Hanifah in the codification of his *Fiqh.* According to Tahavi, he was associated with this for thirty years. While this figure may not be accurate, there is no doubt that his collaboration lasted a long time and that the work of writing was specially entrusted to him.[12] The *Mizan al-I'tidal* says that according to some people Yahya was the first author at Kufah. This view may have been the result of misunderstanding of his position as the scribe of Abu Hanifah's *Fiqh.* He was a *qadi* at Mada'in and died there in 182 H. at the age of sixty-three.

Waki' b. al-Jarrah. He is considered as one of the pillars of *Hadith.* Ahmad b. Hanbal was proud of having been a pupil of

10. Ibn Hajar, *Tahdhib al-Tahdhib,* note on Abu Hanifah.
11. Dhahabi, *Mizan al-'I'tidal,* note on Yahya.
12. *Al-Jawahir al-Mudiyyah,* note on Yahya.

his; so much so that whenever he quoted a Tradition on his authority he would begin by saying: "This Tradition was transmitted to me by one whose equal you have not seen."[13] Yahya b. Ma'in, a leading master of *rajal,* is reported to have said: "I have never met a man whom I could perfer to Waki' b. al-Jarrah."[14] Similar things have been said about him by most doctors of *Hadith.* Bukhari and Muslim have included in their *Sahihs* many Traditions narrated by him; and his narrations and views about *rijal* are considered very authentic.

He was a special pupil of Abu Hanifah's, from whom he heard Traditions. He followed the Imam on most questions and gave *fatwas* according to his dicta. Khatib Baghdadi writes in his *Ta'rikh:* "He gave *fatwas* according to Abu Hanifah's statements and heard many things from him."[15] Dhahabi confirms this in the *Tadhkirat al-Huffaz.* Waki' died in 197 H.

Yazid b. Harun. He is a famous *imam* of *Hadith* who had many great *imams* of *Hadith* among his pupils, as, for example, Ahmad Hanbal, 'Ali b. al-Madini, Yahya b. Ma'in and Ibn Abi Shaibah. According to Nawawi, his pupils were innumerable. Yahya b. Abi Talib reports that on one occasion when he attended a lecture of his there were approximately 70,000 people present.[16] His name was proverbial for the large number of Traditions he knew. He himself used to claim that their number was 20,000. [17] Bukhari's teacher, 'Ali b. Madini used to say that he knew of no one who knew more Traditions by heart.

In *Hadith* he was a pupil of Abu Hanifah's. Dhahabi in his *Tadhkirat al-Huffaz* includes him among those who heard Traditions from the Imam. He was associated with the Imam for a long time and had ample opportunity of forming an opinion about

13. Nawawi, *Tahdhib al-Asma' wa'l-Lughat,* note on *Waki' b. al-Jarrah.*

14. Ibid.

15. In 'Abd al-Barr's report of this the word *haddathana* occurs instead of *Shai'a.* which is significant. See *'Uqud al-Juman,* first part.

16. Nawawi. *Tahdhib al-Asma' wa'l-Lughat,* note on Yaizd b. Harun.

17. Ibid.

his ways and habits. He is reported to have said, "I have associated with many people, but have not met one who was Abu Hanifah's better."[18] He was born in 117 H. and died in 206 H.

Hafs b. Ghiyath. He was a very great *muhaddith.* Khatib Baghdadi describes him as *Kathir al-Hadith* (one who knew a large number of Traditions); Dhahabi includes him among the *huffaz of Hadith;* Ahmad Hanbal, 'Ali b. al-Madini and others have quoted Traditions on his authority. He was specially famous for narrating Traditions from memory, without the aid of a book or record of any kind. The Traditions narrated by him in this way number 3000 or 4000.[19] He was one of those specially dear pupils of Abu Hanifah's to whom he used to say: "You are the comfort of my heart and the allayer of my sorrows." The *Mukhtasar Ta'rikh-i-Baghdad* speaks of him as one of Abu Hnifah's famous pupils.

He avoided worldly concerns for a long time, but was in the end compelled by circumstances to become involved in them. As luck would have it, Harun al-Rashid, hearing of his fame, summoned him and offered him the post of a *qadi,* which he accepted because he was heavily in debt. Abu Yusuf was at that time the *Qadi al-Qudat* (Chief Qadi), who administered the judicial department. As Harun al-Rashid had appointed Hafs without consulting the *Qadi al-Qudat,* the latter minded this and instructed Hasan b. Ziyad to examine the judgments of Hafs critically whenever they came up to him on appeal. But after reading some of the judgments he admitted that there was divine guidance behind them.[20]

Hafs was born in 117 H. He worked as *Qadi* for thirteen years at Kufah and for two at Baghdad. He died in 196 H.

Abu 'Asim al-Nabil. His original name was Dahhak b. Mukhlad and he is a famous *muhaddith,* from whom many Traditions have been quoted in the *Sahihs* of Bukhari and Muslim. Dhahabi says in the *Mizan al-I'tidal* that there is a general consensus about his

18. *Mazi, Tahdhib al-Kamal,* note on Abu Hanifah.

19. *Mizan al-I'tidal,* note on Hafs.

20. *Al-Jawahir al-Mudiyyah* , note on Hafs.

reliability. He was very devout and pious. Bukhari quotes him as saying: "Since I learned that backbiting is a sin I have not talked against anyone behind his back."

Nabil, meaning "respectable," was his title. Accounts vary as to how he acquired it. One account is as follows. At one time Shu'bah took a vow not to narrate Traditions any more. As he was a very great *muhaddith,* whose lectures benefited thousands of students, this caused much public concern. Abu 'Asim, on hearing of the vow, went to Shu'bah and said: "I free a slave of mine to compound your breaking your vow. Please break it and resume your *hadith* classes." Surprised at Abu 'Asim's love of learning and courage, Shu'bah exclaimed: *"Anta Nabil."* "Nabil" from then on became his title.[21]

He was one of Abu Hanifah's special students.[22] According to Khatib Baghdadi, on somebody asking him once whether Sufyan Thauri or Abu Hanifah was more of a *faqih,* he replied: "Comparison is possible only between things that resemble each other. Abu Hanifah is the founder of *Fiqh,* while Sufyan is only a *faqih."*

He died in 212 H. at the age of ninety.

'Abd al-Razzaq b. Huamam. Dhahabi begins his notes on him with the words: "One of the respected scholars." He is a highly renowned *muhaddith.* The *Sahihs* of Bukhari and Muslim are full of Traditions quoted from him. On somebody asking Ahmad b. Hanbal whether he had come across anybody greater than 'Abd al-Razzaq in narrating Traditions, he is said to have replied in the negative. Many great *imams* of *Hadith,* such as Sufyan b. 'Ainiyyah, Yahya b. Ma'in, 'Ali b. al-Madini and Ahmad Hanbal, were among his pupils. Students of *Hadith* used to come from long distances to attend his lectures; some people have said that after the Prophet, there has been none else whom people came to see from such long distances.[23]

21. Ibid., note on Abu 'Asim:
22. Ibid;
23. Sam'ani, *Ansab,* and Yafi'i, *Ta'rikh* notes on 'Abd al-Razzaq b. Humam.

There is a voluminous book by him on *Hadith* entitled the *Jami'* to which Bukhari owes a debt and which Dhahabi in his *Mizan al-I'tidal* describes as a treasure-house of learning.

He was a pupil of Abu Hanifah's in *Hadith.* It appears from a number of passages in the *'Uqud al-Juman* that he was associated with the Imam for a long time. Consequently, many statements are quoted from him about the Imam's habits and manners. One of them is to the effect that he had not known anybody who was gentler in nature than Abu Hanifah.

He was born in 126 H. and died in 211 H.

Dawud al-Ta'i. He was a divinely gifted man. The *Sufis* regard him as a perfect *murshid.* His high spiritual attainments are mentioned in the *Tadhkirat al-Auliya'.* The *faqihs,* especially Hanafi *faqihs,* acknowledge his standing in *Fiqh* and *Ijtihad* . The *muhaddithin* have said that he was "incontrovertibly reliable".[24] He deserves all this honour. The famous *muhaddith* Muharib b. Dithar used to say: "If Dawud had been one of the ancients, God would have spoken of him in the Qur'an."[25]

He started by learning *Fiqh* and *Hadith* and went on to achieve a high degree of proficiency in *Kalam,* taking an active part in debates and polemics. One day in the course of discussion with somebody he threw a pebble at him. The man said: "Dawud, both your tongue and your hands have gone beyond your control." The remark struck home: Dawud gave up taking part in debates, but continued his studies. A year later he threw all his books into a river and cut himself adrift from all worldly occupations. "I often used to go to Dawud," says Imam Muhammad, "to consult him on legal questions. If my questions were of an important and practical nature, he would express his views on them; otherwise he would dismiss me by saying that he was preoccupied with other urgent things."

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In addition to the above there are many famous *muhaddithin* who were pupils of Abu Hanifah's, such as Fadl b. Dakin, Hamzah b. Habib al-Ziyat, Ibrahim b. Tahman, Sa'id b. Aus, 'Umar b. Maimun and Fadl b. Musa. But I have confined myself to those of his pupils who were specially close to him and were associated with him for long periods.

The Fuqaha' who Participated in Fiqh Codification

Qadi Abu Yusuf. Abu Yusuf's greatness and high standing call for an independent memoir which could do justice to his accomplishments : but I must leave that to someone with more time at his disposal than I have at mine. All that is required of me in the context of the present book is to give a brief account of his life and scholarly attainments.

He traced his descent to the Ansar, one of his ancestors, Sa'd b. Sibat, having been a Companion of the Prophet's. His father was a poor man who earned his living as a labourer. He was born at Kufah in 113 or 117 H. He was fond of learning from early childhood, but his father wished him to acquire some profession and add to the family's earnings. Nevertheless, whenever he could spare some time he would spend it in the company of learned men. One day his father forcibly took him away from Abu Hanifah's class and admonished him thus: "My son, God has granted Abu Hanifah freedom from worry so far as his livelihood is concerned. Why do you imitate him?" Abu Yusuf consequently discontinued his education and started spending his time with his father. A few days later Abu Hanifah inquired about him. On this being reported to him, Abu Yusuf came to see the Imam and told him what had happened. The Imam quietly gave him a purse. When he opened it at home, he found that it contained a hundred dirhams. The

Imam had also told him that after spending that money he could ask for more. He went on helping Abu Yasuf in this way until the latter had acquired complete mastery over all the current sciences and become an acknowledged authority.

Abu Yusuf attended the lectures of many other doctors. He heard Traditions from A'mash, Hisham b. 'Urwah, Sulaiman Taimi, Abu Ishaq Shaibani, Yahya b. Sa'id al-Ansari and others, learned *maghazi* (military history) and *siyar* (biography) from Muhammad b. Ishaq and acquired a knowledge of *Fiqh* from Muhammad b. Abi Laila. God had endowed him with so much intelligence and such a good memory that he learned all these disciplines simultaneously. 'Abd al-Barr, a well-known *muhaddith,* writes that Abu Yusuf used to visit different *muhaddithin* and at one sitting learn fifty to sixty Traditions, all of which he would retain in his memory.

So long as Abu Hanifah lived, Abu Yusuf regularly attended his classes. After Abu Hanifah's death he thought of establishing connections with the caliphal court. The Abbasid Caliph Mahdi appointed him as a *Qadi* in 166 H. Mahdi's successor, Hadi, retained him in that post. Subsequently, Harun al-Rashid, on learning of his attainments, appointed him *Qadi al-Qudat* for the whole realm—a post which he was the first to hold in Islamic history and which after him was held by only one man, namely, Ahmad b. Abi Dawud. The improvements he made in the judicial department belong, properly speaking, to a biography of his.

He died on the 5th of Rabi' al-Awwal 182, which was a Thursday. According to Muhammad b. Sama'ah, his dying words were: "O God! You know that I never deliberately gave a judgment which was against the facts. It was always my endeavour to judge in accordance with Your Book and the wont of Your Prophet. Whenever confronted with a difficult problem, I sought Abu Hanifah's guidance and, as far as I know, Abu Hanifah understood Your commands well and never knowingly strayed from the path of truth."

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Abu Yusuf was a very wealthy man, and he put his wealth to good use. He bequeathed four lakhs of rupees to the poor of Mecca, Medina, Kufah and Baghdad.

He was a versatile scholar: although famous mostly in *Fiqh,* he was unrivalled in several other disciplines. The historian Ibn Khallikan quotes Hilal b. Yahya as having said: "Abu Yasuf was a *hafiz* of *tafsir* (exegesis), *maghazi* (military history) and *ayyam al-'Arab* (history of Arabia): *Fiqh* was one of his minor accomplishments." In *Hadith* he ranked so high as to be counted among the *huffaz* of it, and Dhahabi has included an account of him in his *Tadhkirat al-Huffaz.* Yahya b. Ma'in used to say: "There is no one among the *ahl al-ra'y* who cited more Traditions than Abu Yusuf did." Ahmad Hanbal is reported to have said about him " ". Muzni, a famous disciple of Shafi'i, used to say: "Abu Yasuf[26] follows *Hadith* more than anybody else." Khatib Baghdadi quotes this statement from Ahmad Hanbal: "When I was first attracted to *Hadith,* I went to Abu Yusuf." Yahya b. Ma'in, Ahmad Hanbal and many other *imams* of *Hadith* have quoted Traditions from Abu Yusuf. There could be no better proof of his greatness."[27]

No one can deny his standing in *Fiqh.* Abu Hanifah himself acknowledged it. Returning once from a visit to Abu Yusuf during the latter's sickness, he said to his companions: "If, God forbid, this man dies, the world will lose one of its great scholars." The other *imams* also acknowledged his quick intelligence and penetration. A'mash, a famous *muhaddith* of the time, having consulted Abu Yusuf on a question, said on hearing his reply: "Have you any authority for this?" "Yes," replied Abu Yusuf, and he reminded A'mash of a Tradition which the latter had narrated to him on a certain occasion. "Ya'qub," said A'mash, "I first heard this Tradition when your parents had not yet got married, but I have understood its meaning only today."[28]

26. Dhahabi has quoted these statements in the *Tadhkirat al-Huffaz.*

27. In books of *rijal* there are quoted criticisms of Abu Yusuf, but these are, generally speaking, unreliable, because they are either vague or seem to emanate from differences of judgment.

28. Ibn Khallikan, *Ta'rikh,* note on Abu Yusuf.

Abu Yusuf was the first to write a book on *Fiqh.* There are many books by him on other disciplines too, which have been listed by Ibn al-Nadim in the *Kitab al-Fihrist,* but I have seen only the *Kitab al-Kharaj* and will say something about it. The book is a collection of memoranda sent by Abu Yusuf to Harun al-Rashid on *Kharaj* (tribute), *Jizyah* (poll-tax), etc. It is mainly concerned with questions of *Kharaj* and can, therefore, be described as the revenue law of the time. The classification of lands according to value and productivity, the different rates of revenue, variations in the status of the cultivators, kinds of product and similar other matters have been dealt with so comprehensively and rules have been framed on all of them so systematically that one finds it a surprising document for its time. The style is free and easy. Along with rules and instructions the irregularities prevailing in the administration have been mentioned and the Caliph's attention has been drawn to them boldly.

The most remarkable thing about Abu Yusuf is that under a self-admiring autocrat like Harun al-Rashid he performed his duties with courage and freedom seldom paralleled in the history of Asian kingdoms. Here, for example, is a bit of advice addressed to Harun al-Rashid in the *Kitab al-Kharaj*: "Commander of the Faithful, if you had been holding court even once a month to dispense justice to your subjects, you would not have been bracketed with those rulers who veil themselves from their subjects; and if you had held court even once or twice altogether, the news would have spread far and wide and wrongdoers would have desisted from wrongdoing. In fact, if the governors and administrators get to know that you sit in court to dispense justice even once a year, wrongdoers would never have the audacity to do wrong."

Who else could have been hold enough to address Harun al-Rashid in these words?

What is surprising is that even an independentminded and high-souled man like Abu Yusuf did not escape attacks by his enemies, who have called him a sycophant and time-server and have invented stories to prove this charge. Some undiscriminating

historians have quoted these stories, which have misled superficial observers into believing the charge. Thus some of the stories have been quoted in the *Ta'rikh al-Khulafa'* . However, the passage I have quoted from the *Kitab al-Kharaj* furnishes positive proof of the unreliability of these stories. Leave alone uncritical historians, even some *muhaddithin* were so carried off by their animus that they did not care to verify the facts. Baihaqi in his voluminous biography of Shafi'i writes: "When Imam Shafi'i was produced under arrest in Harun al-Rashid's court, Qadi Abu Yasuf and Imam Muhammad advised the Caliph to have him put to death on the ground that, if he were not disposed of quickly, he would endanger the State." Alas! Baihaqi, for all his reputation as a *muhaddith,* lost sight of the fact that Abu Yusuf had died long before Shafi'i was arrested and produced before Harun al-Rashid. Fortunately, some of his fellow-*muhaddithin* have proved the story to be false. Ibn Hajar, who was not followed by any *muhaddith* greater than himself, wrote a book on Shafi'i[29] which has recently been published in Egypt. In that book he writes: "This story is fasle and the greater part of it is a fabrication, while the other part is derived from mixed narrations. What is obviously false in the story is the statement that Abu Yusuf and Muhammad b. al-Hasan induced Harun al-Rashid to have Imam Shafi'i put to death."

There are a number of things of which Abu Yusuf is said to have been the originator. Ibn Khallikan writes: "Qadi Abu Yusuf was the first to propose a distinctive dress for the *'ulama'* which is still in vogue. Before that they dressed like the common people."

Muhammad b. al-Hasan al-Shaibani. He is one of the twin pillars of Hanafi *Fiqh,* the other being Abu Yusuf. His family belonged to a village called Harasta in the close vicinity of Damascus, but his father had migrated to Wasitah, where he was born in 135 H. Early in his youth he went to Kufah and there started his education, attending the lectures of many eminent *fuqaha'* and *muhaddithin.* He heard Traditions from Mus'ir b. Kadam, Sufyan Thauri, Malik

29. Entitled *Tawali al-Ta'sis bi-Ma'ali Ibn Idris* and published in 1301 H. at the Miriyah Press.

b. Dinar, Auza'i and others. For about two years he attended Abu Hanifah's lectures, and after the latter's death completed his education under Abu Yusuf. Then he went to Medina, where he learned *Hadith* from Malik. While still a youth, he became famous for his attainments; at twenty he assumed the professional chair, and students began to attend his classes. Harun al-Rashid, having learnt of his attainments, appointed him a *Qadi* and most of the time kept him near himself. Accompanying Harun al-Rashid on a visit to Rayy in 189 H., Muhammad died at a village called Ranbuyah in the neighbourhood of Rayy. By an unhappy coincidence, the famous grammarian Kasa'i, who was in the royal party, also died at the same village. Harun al-Rashid was greatly grieved by this double loss and said: "We have buried both *Fiqh* and *Nahv* today." Yazidi, a famous man of letters and courtier of Harun al-Rashid, wrote a poignant elegy, one of whose verses said: "We asked ourselves who would solve our problems after your death."

Although Muhammad spent the greater part of his life as a courtier, he never gave up thinking independently and speaking the truth. When in 175 H., Yahya 'Alawi rebelled, Harun al-Rashid was frightened out of his wits on seeing his strength in men and arms and signed an armistice with him. The armistice was countersigned by important divines, scholars and jurists. A few days after Yahya, having signed the armistice, returned to Baghdad, Harun al-Rashid began to play with the idea of violating the armistice. All the *'ulama'* from fear of the Caliph gave a *fatwa* that in the circumstances it was permissible for him to do so. Muhammad openly opposed the idea and adhered to his stand till the end.

Muhammad's standing can be gauged from what the *mujtahid imams* said about him. Shafi'i said: "Whenever Imam Muhammad expounded a point of law, it seemed as if the revealing angel had descended upon him." I have already quoted another saying of Shafi'i's: "I acquired from Imam Muhammad a camel-load of learning." On somebody asking Ahmad Hanbal where he had learnt all the subtle points of law he used to make, he replied,

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b. Dinar, Auza'i and others. For about two years he attended Abu Hanifah's lectures, and after the latter's death completed his education under Abu Yusuf. Then he went to Medina, where he learned *Hadith* from Malik. While still a youth, he became famous for his attainments; at twenty he assumed the professional chair, and students began to attend his classes. Harun al-Rashid, having learnt of his attainments, appointed him a *Qadi* and most of the time kept him near himself. Accompanying Harun al-Rashid on a visit to Rayy in 189 H., Muhammad died at a village called Ranbuyah in the neighbourhood of Rayy. By an unhappy coincidence, the famous grammarian Kasa'i, who was in the royal party, also died at the same village. Harun al-Rashid was greatly grieved by this double loss and said: "We have buried both *Fiqh* and *Nahv* today." Yazidi, a famous man of letters and courtier of Harun al-Rashid, wrote a poignant elegy, one of whose verses said: "We asked ourselves who would solve our problems after your death."

Although Muhammad spent the greater part of his life as a courtier, he never gave up thinking independently and speaking the truth. When in 175 H., Yahya 'Alawi rebelled, Harun al-Rashid was frightened out of his wits on seeing his strength in men and arms and signed an armistice with him. The armistice was countersigned by important divines, scholars and jurists. A few days after Yahya, having signed the armistice, returned to Baghdad, Harun al-Rashid began to play with the idea of violating the armistice. All the *'ulama'* from fear of the Caliph gave a *fatwa* that in the circumstances it was permissible for him to do so. Muhammad openly opposed the idea and adhered to his stand till the end.

Muhammad's standing can be gauged from what the *mujtahid imams* said about him. Shafi'i said: "Whenever Imam Muhammad expounded a point of law, it seemed as if the revealing angel had descended upon him." I have already quoted another saying of Shafi'i's: "I acquired from Imam Muhammad a camel-load of learning." On somebody asking Ahmad Hanbal where he had learnt all the subtle points of law he used to make, he replied,

"From the books of Muhammad b. al-Hasan."[30]

Although Muhammad's school turned out many eminent scholars, Shafi'i stands in a class by himself among them. This statement will probably surprise people of superficial learning in our day. Even in earlier days Ibn Taimiyyah denied that Shafi'i was a pupil of Muhammad's. But the truth cannot be suppressed for ever. Hundreds of books of history and *rijal* bear witness to the fact that Shafi'i acquired a lot from his association with Muhammad, and, what is more, he himself acknowledged this. Ibn Hajar quotes him as having said: "Muhanamad b. al-Hasan was held in high esteem by the Caliph. So I used to visit him. I told myself that he was of a high rank in *Fiqh* too. Therefore, I made it a point to attend upon him, and I used to take down his lectures."

Muhammad for his part respected Shafi'i very much and treated him with more courtesy than he did other students of his. One day while on his way to the Caliph's court he met Shafi'i who was on his way to his house. He immediately dismounted and told his attendant to go and inform the Caliph that he was unable to attend court at that time. Shafi'i requested him to proceed to court, as he could see him some other time. Muhammad, however, replied that it was not so necessary for him to go to court.[31] There were now and again debates between Muhammad and Shafi'i which is why some people have denied the teacher-pupil relationship between them. The fact, however, is that in those days debate between teacher and pupil was not considered inappropriate–nor should it be in our day.

Although Muhammad's fame rests mostly on his work in the field of *Fiqh,* yet he has the rank of a *mujtahid* in exegesis, Tradition and literature also. Shafi'i is reported to have said: "I have not come across a man more learned in the Our'an than Imam Muhammad."[32] There is no book of his on literature and Arabic

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31. *Tawali al-Ta'sis,* p. 96.

32. *Al-Jawahir al-Mudiyyah,* note on Imam Muhammad.

linguistics, but the treatment, in the *Jami' Kabir,* of questions of *Fiqh* based upon grammatical points shows how high were his attainments in these disciplines. Thus, Ibn Khallikan and others make special mention of them.

In *Hadith* his book *Muwatta'* is famous. Besides, in his *Kitab al-Hujaj,* which he wrote in refutation of Malik, he has cited numerous Traditions on different questions, pointing out that the Traditions counter the claim of the Medina doctors that they follow *Hadith.*

Muhammad's writings are very large in number and they are the basis of Hanafi *Fiqh* today. I give below a list of those of his works in which he has cited Abu Hanifah's expositions and which are, therefore, considered as the groundwork of Hanafi *Fiqh*:

(1) The *Mabsut.* This book was originally written by Abu Yusuf. Muhammad revised it, making the exposition clearer. This was his first work.

(2) The *Jami' Saghir.* This was written after the *Mabsut.* In it Muhammad quotes all the dicta of Abu Hanifah on the authority of Abu Yusuf, dealing with 533 questions on 170 of which different opinions have been expressed. The questions fall into three categories, viz. (*i*) those mentioned only in this book, (*ii*) those mentioned also in other books of Muhammad, but not mentioned explicitly as Abu Hanifah's rulings, which has been done in this book, and (*iii*) those mentioned in other books of Muhammad, but stated here in words which invest them with a new significance.

On this book many commentaries have been written, the names and brief particulars of which have been given in the *Kashf al-Zunun* and other works.

(3) The *Jami' Kabir.* This was written after the *Jami' Saghir* and is a voluminous work, in which the dicta of Abu Hanifah have been quoted along with those of Abu Yusuf and Zufar. On every question the arguments have also been stated. Later Hanafi scholars

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formulated their principles of jurisprudence on the basis of the method of reasoning followed in this book. Many eminent jurists wrote commentaries on it, of which forty-two have been mentioned in the *Kashf al-Zunun.*

(4) The *Ziyadat.* This is a supplement to the *Jami' Kabir,* as its name shows.

(5) The *Kitab al-Hujaj.* Muhammad visited Medina after Abu Hanifah's death and for three years studied Malik's *Muwatta'* under him. The Medinans had their own school of *Fiqh,* which differed on many questions from that of Abu Hanifah. Muhammad wrote the book on his return from Medina. In it he first states the dicta of Abu Hanifah, then he describes the views of the Medinans and lastly he proves with the help of Traditions and analogy that Abu Hanifah's *madhhab* is correct and that of others incorrect. Razi mentions this book in the *Manaqib al-Shafi'i* . It has been printed and is available everywhere. I have seen a manuscript of it too.

(6) The *Siyar Saghir wa Kabir.* These are his last works. He first wrote the *Siyar Saghir.* Auza'i, seeing a manuscript of it, tauntingly remarked: "What do the 'Iraqis have to do with *siyar?"* Hearing of this remark, Muhammad started writing the *Siyar Kabir.* When completed, it consisted of sixty parts. Muhammad loaded it on a mule and had it carried to Harun al-Rashid. The latter had already heard of it and so he sent the princes royal to study it with Muhammad.

In addition to the above there are some works by Muhammad on *Fiqh,* e.g. the *Kayaniyat,* the *Jurjaniyat,* the *Raqqiyat* and the *Haruniyat.* But these books do not belong to the *Zahir al-riwayah* (exoteric narration in the terminology of the jurists : in fact, the *Kitab al-Hujaj,* mentioned earlier, does not either.

Zufar. Although he was a greater master of *Fiqh* than Muhammad b. al-Hasan, yet I have had to speak of him later than of the latter because no writing of his is extant and very little is known about him.

He was of Arab origin. In the beginning he was interested exclusively in *Hadith* and was, therefore, known as *Sahib al-Hadith* (master of *Hadith*), as Nawawi states in the *Tadhdhib al-Lughat.* Later he turned to *Fiqh* and was occupied with it till the end of his days.

Yahya b. Ma'in, an *imam* of *Hadith* criticism, says: "Zufar, authentic and reliable."[33] Some people have tried to prove him a weak *muhaddith,* but what they say is vague and not worthy of much notice.

He was particularly skilled in analogical reasoning. Abu Hanifah used to call him the greatest of his companions in this respect. Waki' b. al-Jarrah, whom I have already dealt with, used to consult him. He also held the post of *Qadi.* He was born in 110 H. and died in 158 H.

Qasim b. Ma'n. He was an eminent scholar, Traditions from whom have been quoted in the six *Sahihs.* A finished scholar in *Hadith* and *Fiqh* he was unrivalled in Arabic linguistics and literature. He frequently consulted Muhammad b. al-Hasan. The Caliph appointed him as a *Qadi.* He accepted the post, but never drew any salary.

Abu Hanifah held him specially dear. He was one of those people whom he used to call the comfort of his heart and the allayers of his sorrows. He in turn was sincerely attached to the Imam. One day somebody said to him: "You are an *imam* of both *Fiqh* and Arabic linguistics. Which of these two is the vaster?" He replied: "By God, one piece of writing by Imam Abu Hanifah is worth the whole of Arabic linguistics." He died in 175 H.

Asad b. 'Amr. He was the first man to be appointed a member of Abu Hanifah's editorial board. He was a scholar of high standing. Ahmad b. Hanbal has quoted Traditions from him and Yahya b. Ma'in calls him reliable.

Hilal Razi tells a story about him, from which the high esteem

33. Nawawi, *Tahdhib Al-Asma' wa'l-Lughat.*

he enjoyed at court can be gauged. Harun al-Rashid, says Hilal, was on a visit to Mecca. After the *tawaf* he went into the *Ka'bah* and sat down. All the courtiers kept standing, except one who was made to sit next to the Caliph. Hilal was surprised at this and asked the people present who that man was. He was told that he was Asad b. 'Amr.[34]

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34. *Jawahir al-Mudiyyah.*
35. I learned these facts from the *Jawahir al-Mudiyyah.*

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